

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

952 WRIT PETITION NO.11578 OF 2021

ABHISHEK GOPALRAO DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr.Paresh B.Patil (Borse)
AGP for Respondent Nos.1 to 4 : Mr.P.S.Patil
...

**CORAM : RAVINDRA V. GHUGE &
SANDIPKUMAR C. MORE, JJ.**

DATE : 8th June, 2022

PER COURT:-

1. By this petition, the petitioner has put-forth prayer clauses B, C and D, which read as under :-

“B) By issuance Writ of Certiorari or any other appropriate Writ, kindly be quashed and set-aside, the impugned order cum letter dated 14/06/2021 issued by the Respondent No.4 authority Assistance Social Welfare Commissioner, Jalgaon, for that purpose this Hon’ble Court may pass appropriate orders.

C) By Writ of Mandamus or any other kind of appropriate Writ like nature or orders and directions, to issue order and directions may kindly be given to the Resp. No.4 Assistance Social Welfare Commissioner, Jalgaon authority to grant necessary approval to the appointment of the petitioner on post of Helper (Madnis) w.e.f. 15/06/2012 and to grant all consequential monitory benefits in favour of the petitioner

w.e.f. 15/06/2012 for that purpose this Hon'ble Court may pass appropriate orders.

D) By Writ of Mandamus or any other kind of appropriate Writ like nature or orders and directions, directions may kindly be given to the Respondent Nos.3 and 4 authorities to grant necessary permanent approval forthwith to the appointment of the petitioner on the post of Helper w.e.f.15/06/2012 and further sanction and release monthly regular salary with arrears from 15/06/2012 in favour of the petitioner for that purpose this Hon'ble Court may pass appropriate order or direction."

2. The proposal seeking approval to the appointment of the petitioner dated 15th June, 2012 has been rejected by the impugned order dated 14th June,2021, issued by the Assistant Commissioner, Social Welfare, Jalgaon, on the ground that the appointment order was issued when there was a ban on recruitment. Reliance is placed on the Government Resolution dated 16th October, 2012 and the Circular dated 6th December, 2012 vide which the surplus candidates were to be absorbed to the maximum extent and only thereafter, the new appointments were to be made.

3. Having considered the submissions of the learned Advocates for the respective sides and considering the order passed by a Coordinate Bench of this Court dated 9th March, 2021 in Writ Petition No.7129 of 2020, filed by *Kavita D/o.*

Sarichand Rathod Vs. State of Maharashtra and others, it is obvious that neither the Government Resolution nor the Circular would apply to the case of the petitioner, who was appointed on 15th June, 2012.

4. The learned Advocate for the petitioner submits that, with the above observations, respondent No.4 be directed to decide the proposal of the petitioner within a time frame.

5. In view of the above, this petition is partly allowed. The impugned order dated 14th June, 2021 is quashed and set aside.

6. Respondent No.4 is directed to pass an order on the proposal for approval, afresh, by considering all relevant factors and by keeping in view that the Government Resolution dated 16th October, 2012 and Circular dated 6th December, 2012 would not create a legal impediment for the appointment of the petitioner made on 15th June, 2012.

7. We expect such a decision to be taken and a reasoned order to be passed by respondent No.4, on or before 30th September, 2022.

(**SANDIPKUMAR C. MORE**)
JUDGE

(**RAVINDRA V. GHUGE**)
JUDGE