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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2870 OF 2017

Meena Rajkumar Suryawanshi
Age – 26 years, Occ – Nil,
R/o Shivnagar, Taluka – Deoni,
District - Latur

PETITIONER

VERSUS

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| 1. The State of Maharashtra
Through Secretary,
Woman & Child Development Department,
Mantralaya, Mumbai – 32 | RESPONDENTS |
| 2. The Commissioner,
Aurangabad Division, Aurangabad | |
| 3. The Chief Executive Officer,
Zilla Parishad, Latur,
District – Latur | |
| 4. The Child Development Project Officer,
Ekatmik Balvikas Seva Yojna, Deoni
Taluka – Deoni, District – Latur | |
| 5. The Secretary
Sevika Selection Committee
Ekatmik Balvikas Seva Yojna | |
| 6. Jyoti Tukaram Kamble
Age – Major, Occ – Nil
R/o Nidben-ves, Udgir
Taluka – Udgir, District – Latur
At Present R/o Batanpur
Taluka – Deoni, District – Latur | |
| 7. Saw. Iswari Shivraji Kharabe,
Age – Major, Occ – Service
R/o Batanpur, Taluka – Deoni
District - Latur | |

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Mr. D.M.Mane h/f Mr. U. L. Momale, Advocate for the petitioner
Mr. S. N. Kendre, AGP for respondent - State
Mr. E. P.Sawant, Advocate for respondents No. 3 to 5
Mr. M. B. Bharasadkar, Advocate for respondent No.7

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[CORAM : NITIN B. SURYAWANSHI, J.]
DATE : 24th AUGUST, 2022

JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2. The petitioner, by this petition, filed under Article 226 and 227 of the Constitution of India, has challenged appointment of respondent No.7 on the post of Mini Anganwadi Sevika of village Batanpur (Shivnagar) and seeks a relief that the petitioner be appointed in the place of respondent No.7 on the said post.

3. Facts in nutshell are that, the petitioner, respondent No.6 and respondent No.7 applied for the post of Mini Anganwadi Sevika for village Batanpur (Shivnagar) pursuant to the proclamation dated 10th July, 2015. After carrying out the selection process, select list was prepared, in which respondent No.7 stood at serial No.1, respondent No.6 at serial No.2 and the petitioner was at serial No.3.

4. The petitioner objected the selection of respondents No.6 and 7, by filing objections dated 16th December, 2015 (Exhibits-F

and G). The Extension Officer, Panchayat Samiti, Deoni, conducted an inquiry into the objections filed by the petitioners. In the inquiry, it was revealed that respondent No.6 has obtained certificate of marriage by putting incorrect date of marriage, which was one month prior to the date of her actual marriage.

5. Thereafter, respondent No.7 was appointed on the post of Mini Anganwadi Sevika of village Batanpur (Shivnagar)

6. The petitioner thereafter approached this Court by filing writ petition No. 5012 of 2016 challenging the appointment order issued in favour of respondent No.7. The said writ petition was dismissed as withdrawn with liberty to the petitioner to file appeal before the Divisional Commissioner.

7. The petitioner thereafter filed proceedings before the Chief Executive Officer, Zilla Parishad, Latur arraigning respondents No. 6 and 7 and respondent No.4 as party respondents. The Chief Executive Officer repelled the challenge of the petitioner holding that Shivnagar is part of revenue village Batanpur and revenue village is held to be the basis for appointment on the post of Mini Anganwadi Sevika. Therefore, the contention of the petitioner that respondent No. 7 does not belong to a particular area and she is not, therefore, eligible to be appointed on the

said post, cannot be accepted.

8. The petitioner challenged the order passed by the Chief Executive Officer by filing appeal before the Divisional Commissioner, Aurangabad, who has upheld the order passed by the Chief Executive Officer. Both the orders of the Chief Executive Officer and the Divisional Commissioner are impugned in the present writ petition.

9. Heard Mr. Mane, learned advocate for the petitioner, Mr. Sawant, learned advocate for respondents No.3 to 5, Mr. Bharaswadkar, learned advocate for respondent No.7 and the learned Assistant Government Pleader for the State.

10. It is not in dispute that respondent No.7 is resident of village Batanpur, Taluka – Deoni, District – Latur, which is clear from the residence certificates (Page 48 and 49) issued by the Gram Sevak of village Batanpur.

11. Learned advocate for the petitioner has placed reliance on Government Resolution dated 13th August, 2014 to contend that in view of clause 1-D, the meaning of word “*local*” should be taken as in which village the Anganwadi Kendra is situated, that village should be treated as “Local village”. Clause 2-B of the said Government Resolution provides that on the post of

Anganwadi Sevika and Mini Anganwadi Sevika or helper, only the residents of those villages should be treated as "local residents".

12. This clause B of para 2 of the said GR also refers in respect of urban projects, the resident of the "same ward", should be considered as "local". By relying on this clause "B" of para 2 of the said GR, the learned advocate for the petitioner vehemently contends that since respondent No. 7 is not resident of Shivpur part of village Batanpur, where the Anganwadi is situated, she is not eligible to be appointed on the said post.

13. This Court is of the considered view that the learned advocate for the petitioner has misread and misconstrued clause "B" of para 2 of the said Government Resolution. Clause "B" of para 2 specifically provides that the village in which the Anganwadi Kendra is situated should be treated as "local village". In the present case, Batanpur (Shivpur) are not two different villages, but is the only one revenue village, which is clear from the affidavit in reply filed on behalf of the Chief Executive Officer, Zilla Parishad, Latur. It is categorically submitted in the reply that for the purpose of implementation of the Government Resolution, concept of revenue village is taken into consideration and the Government Resolution does not provide provisions for appointment of Anganwadi Sevika, separate for ward or part of

village and, therefore, the concept of revenue village is rightly considered while giving appointment order to respondent No7. The record further indicates that the village is named as Batanpur (Shivnagar).

14. In view of the above, there is no substance in the challenge raised by the petitioner in the present writ petition. The argument of the petitioner that since respondent No.7 is not from Shivpur and she is resident of Batanpur, she is not eligible to be selected, cannot be accepted in the facts of the present case.

15. The Chief Executive Officer as well as the Divisional Commissioner have recorded concurrent findings of facts, which are not liable to be interfered with in the extraordinary writ jurisdiction.

16. The writ petition, being devoid of substance is dismissed. No costs. Rule discharged.

[NITIN B. SURYAWANSHI]
JUDGE