

(1)

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

913 WRIT PETITION NO.1519 OF 2023

HANUMAN YASHWANT SARVADE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

AND

914 WRIT PETITION NO.1520 OF 2023

UJJWALA ASHOK JATAL
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

AND

915 WRIT PETITION NO.1655 OF 2023

CHINTAMAN TUKARAM MUNDE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

AND

916 WRIT PETITION NO.1752 OF 2023

SANJAY DNAYNOBA PADOLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

....

Mr Suvidh S. Kulkarni, Advocate for petitioners in WP
Nos.1519/2023 and 1752/2023

Mr V. P. Latange, Advocate for petitioner in WP/1520/2023

Mr C. R. Thorat, Advocate for petitioner in WP/1655/2023

Mr V. M. Kagne, Mr S. G. Sangle and Mr S. G. Karlekar, A.G.Ps.
for respondents/State in respective petitions

Mr P. D. Suryawanshi, Advocate for respondent/Zilla Parishad,
Beed in respective petitions

(2)

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 24th February, 2023

PER COURT:

1. In all these matters, the identically placed petitioners are before the Court, seeking a direction that the impugned order be quashed and set aside, which had led to their suspension from service, to be followed by a Departmental Enquiry.

2. We have considered the submissions of the learned Advocate for the respective sides. Taking into account the statements made on behalf of the petitioners and the Zilla Parishad, we are not required to advert to their entire submissions. Suffice it to say that, vide the Government Resolution dated 14/09/2018, candidates having 40% or more disability, are eligible for intra-district transfers.

3. In all there are 336 candidates, who presented medical certificates obtained from various authorities, declaring them to be 40% or more disabled. By way of an illustration, we note that some of the candidates, who claim to be suffering from hearing

(3)

impairment, have procured certificates of they being 73% disabled. There are many, who claimed to be suffering from hearing impairment and have received certificates indicating more than 40% disability. The Zilla Parishad referred their cases to the Medical Board of the Swami Ramanand Tirth Rural Government Medical College and Hospital at Ambajogai, Dist. Beed, and upon examining such cases, for illustration, the person with hearing impairment, who was issued with a 73% disability certificate, is found to be 10% disabled and one of them, who had acquired 70% disability certificate, is found to be absolutely normal with 0% disability. It is in this backdrop that, these petitioners have been suspended by the Zilla Parishad on the ground of attempting to play a fraud on the employer.

4. Considering that, most of these petitioners had earlier acquired certificates from the Medical Board or a Committee of the Doctors, and since the Committee headed by the Dean of the Ambajogai Medical College has submitted a report, indicating much lower disability percentage and in some cases even 0% disability, that these petitioners are agreeable to abide by the Government Resolution dated 14/09/2018, and are willing to be examined by the Medical Committee of the J.J. Hospital at

(4)

Mumbai. Each of them states that the Zilla Parishad may issue them a covering letter and refer them to the J. J. Hospital on particular dates and they are willing to be examined by the Appellate Medical Board of the J.J. Hospital, Mumbai, comprising of the Dean, the Medical Superintendent and a Subject Expert, who is a Senior Professor.

5. In view of the above, the learned Advocate for the Zilla Parishad submits that, the Zilla Parishad would issue a letter addressing the Dean of the J. J. Hospital, Mumbai, along with a copy of this order, and thereafter, issue letters to the individual petitioners and the similarly placed other teachers, to attend the medical examination by the Appellate Medical Board at the J. J. Hospital on particular dates and time.

6. In view of the above statements recorded, these petitions are disposed off. The impugned suspension orders stand set aside. It is made clear that, after the Appellate Medical Board of the J. J. Hospital, Mumbai, tenders its report in a sealed cover, addressed to the Chief Executive Officer, Zilla Parishad, and that if any teacher is found to have suffered lesser or no disability amounting to a fraud, the Zilla Parishad will be at liberty to

(5)

initiate appropriate disciplinary action. The petitioners are agreeable.

7. Pursuant to this order, if any of these petitioners/ candidates as like the petitioners, desire to confess and tender an apology to the Zilla Parishad and seek pardon, they are at liberty to do so within 15 days from today and in such cases, the lapse on their part may be condoned with a strict warning by the Zilla Parishad, with a rider that, they will never indulge in any such act in future. Insofar as those teachers, who have secured the job on the basis of their disability certificates, the Zilla Parishad is at liberty to refer them also, to the Appellate Board of the J. J. Hospital, as directed above.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

sjk