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

1008 WRIT PETITION NO.13334 OF 2023

SMT. SANGITA YOGESH GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

....

Mr S. S. Thombre, Advocate for Petitioner;
Mr P. S. Patil, A.G.P. for Respondent No.1
Mr S. R. Dheple, Advocate for Respondent Nos.2 & 3
Mr P. R. Nangare, Advocate for Respondent No.4

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 8th November, 2023

PER COURT:

1. On 23/10/2023, we had passed the following order :-

“1. This matter was taken on the Production Board, since the learned Advocate for the Petitioner expressed a grave urgency.

2. The impugned order dated 28/09/2023 is passed by Respondent No.2/ Appellate Officer i.e. the Chief Executive Officer, Zilla Parishad, Jalgaon. Complainant/ Smt. Prajakta Niles Kalaskar is Respondent No.4 herein. The Respondent before the Chief Executive Officer is Respondent No.3 herein. The Complainant alleged that, the Petitioner has been wrongly appointed on 17/08/2023. However, neither the Petitioner was arrayed as Respondent, nor did the Chief Executive Officer call upon the Petitioner to explain, as to why her service should not be terminated.

(2)

Surprisingly, the Complainant is issued with an order to join the duties on 25/10/2023. The Petitioner is in service as on date, is the solemn statement made by the learned Advocate for the Petitioner, on instructions and has not received any termination order.

3. Issue notice to the Respondents, returnable on 08/11/2023. The learned A.G.P. waives service of notice on behalf of Respondent No.1. Shri. Dheple, the learned Advocate waives service of notice on behalf of Respondent Nos.2 and 3.

4. Besides service of Court notice, the Petitioner would serve Respondent No.4 through Advocate's notice alongwith a copy of this order, by permissible modes of service.

5. Since the Petitioner is in employment and Respondent No.4 is supposed to join on 25/10/2023 in place of the Petitioner, we direct that the impugned order shall remain inoperable until further orders.”

2. The learned Advocate representing Respondent No.4 submits that Respondent No.4 would not mind if the impugned order is set aside and the matter is remitted to the Chief Executive Officer for fresh adjudication. The learned Advocate representing the Chief Executive Officer submits that, all the litigating parties would be granted a reasonable opportunity of hearing and the matter would be decided by following the due procedure laid down in law and by passing a reasoned order.

(3)

3. In view of the above, **this Writ Petition is partly allowed.** The impugned order dated 28/09/2023 is quashed and set aside. The proceedings in which the impugned order was passed, shall be remitted to the office of the Chief Executive Officer, Zilla Parishad, Jalgaon, with the following directions :-

(a) The Petitioner and Respondent No.4 shall appear before Respondent No.2 at 12.00 noon on 28/11/2023. Both the parties would be at liberty to tender their written notes of submissions and such documents, which they desire to be placed before the Chief Executive Officer.

(b) The Chief Executive Officer, Zilla Parishad would consider the submissions of the parties and by following the due procedure laid down in law, pass a reasoned order, on or before 31/12/2023, without being influenced by the observations or the conclusions drawn in the impugned order dated 28/09/2023, which has been set aside.

(4)

(c) The aggrieved party would be at liberty to follow the statutory provision for challenging the order of the Chief Executive Officer, as is prescribed in law.

(d) In the event, the order passed by the Chief Executive Officer results in taking away the employment of the Petitioner, the said order would not be implemented for a period of 15 days, considering that she is still in service.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

sjk