



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2188 OF 2012

Shri Ulhas Fulchand Rathod }
aged-41 years, occu: terminated, }
R/o, Mukkam, Post-Ghatangri, }
Taluka and District-Osmanabad. }

...Petitioner

V/s.

1. State of Maharashtra }
through Secretary, Ministry Social }
Justice, Government of Maharashtra, }
Extension Building, Mantralaya, }
Mumbai-400 032. }

2. Director, VJNT, OBC, SBC Welfare, }
3, Church Road, 5th Floor, M.S. Pune- }
1. }

3. Divisional Social Welfare Officer, }
PMT Canteen Bldg. 1st Floor, Behind }
Janaki Hall, Swarget, Pune-411 037. }

4. Special District Social Welfare }
Officer, Central Building, Collector }
compound, Ground Floor-D, Solapur }

5. Naik Charitable Trust, through }
Prsident, Old Bus Depot, Ganesh }
Nagar, Osmanabad. }

6. Dnyandeep Madhyamik }
Ashramshala, through Principal, }
Tambewadi (Tanda), Tal-Barshi, }
District-Solapur. }

... Respondents

Dr. Uday Warunjikar I.by Mr. Sumit S. Kate for petitioner.

Mr. V.M. Mali – AGP for respondent/State.

Mr. Sachin Gawade I.by Mr. Avinash B. Avhad for respondent no. 5 and 6.

**CORAM : SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ**

DATE : 25th SEPTEMBER 2023.

ORAL JUDGMENT : (PER SUNIL B. SHUKRE, J)

1. Rule. Rule made returnable forthwith by consent. Heard Shri Warunjikar, learned counsel for the petitioner, learned AGP for respondent nos. 1 to 4/State and Mr. Gawade, learned advocate holding for Mr. Avinash Avhad, learned counsel for respondent nos.5 and 6.

2. Learned counsel for respondent nos. 5 and 6 seeks time in the matter stating that learned counsel for respondent nos. 5 and 6 is in personal difficulty today. His request for grant of further time is rejected as this petition is more than a decade old and has been admitted for final hearing on 8th October 2013. When we made request to Mr. Gawade learned advocate holding for respondent nos. 5 and 6, he expressed his inability to assist the Court stating that he has no instructions in the matter.

3. In the circumstances, we have heard this matter finally now.

4. Reply filed on behalf of Social Welfare Department, Pune Division, Pune shows that the department has already issued a show cause notice to the School Management i.e. respondent no. 6 as to why appropriate action be not taken against the Management for not

complying with the directions issued by respondent no. 4 to absorb the petitioner in the post of 'Cook', which became necessary after cancellation of the approval initially granted to the petitioner's appointment as 'Mali' in respondent no. 6-School. The communication giving the said direction was issued to respondent nos.5 and 6 on 10th June 2010. But, so far the petitioner has not been absorbed in respondent no. 6-School in the post of 'Cook'. This Court while admitting the matter on 8th October 2013 had observed that the show cause notice dated 6/7th September 2013 issued by the Regional Deputy Commissioner of Social Welfare Department, Pune Division, Pune must be taken to its logical end indicating thereby that doing so would serve the purpose of the petition.

5. Today, the fact is that the respondent nos. 5 and 6 have not taken the show cause notice to its logical end, nor respondent no. 4 appears to be serious in taking his show cause notice to its logical end.

6. As far as respondent nos. 5 and 6 are concerned, taking of the show cause notice to its logical end only meant that they implemented the communication dated 10th June 2010 by absorbing the petitioner in the post of 'Cook' and for respondent no. 4, it meant that respondent no. 4 would take some coercive action against the respondent nos. 5 and 6 for their failure to take the show cause notice to its logical end.

7. Be that as it may, now it has to be seen that respondent nos. 5 and 6 give full effect to the communication dated 10th June 2010 and this is because of the fact that there is complete inaction in this matter on the part of respondent no. 4 as well as respondent nos. 5 and 6.

8. We also find that the direction already issued by respondent no. 4 for absorbing the petitioner in the post of 'Cook', till date remains unchallenged and that means, there is no reason why respondent nos. 5 and 6 should not give any effect to the said order.

9. In the circumstances, we are of the view that this petition can be allowed by issuing suitable direction to the respondent nos. 5 and 6 together with payment of arrears of salary and other suitable benefits. Hence, we pass the following order:

ORDER

- i) The petition is allowed.
- ii) Respondent nos. 5 and 6 are directed to absorb the petitioner in the post of Cook in respondent no. 6-School within a period of four weeks from the date of the order.
- iii) Respondent nos. 5 and 6 are further directed to grant the petitioner continuity in service with effect from 1st November 2006 and pay arrears of salary for a period starting from 3 years prior to the date of filing of the petition till the date of payment within a period of eight weeks from the date of the order.

10. Rule is made absolute in the above terms. No costs.

11. Writ Petition is disposed of.

(FIRDOSH P. POONIWALLA, J)

(SUNIL B. SHUKRE, J)