

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1393 OF 2023

(DIPALI NISHANT RAJURLEWAR ..VS.. STATE OF MAH. THR. WOMEN & CHILD DEV. DEPT. &
OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.D.Patil, Advocate for Petitioner.
Ms Tajwar Khan, A.G.P. for Respondent Nos.1, 2 & 4.
Shri M.L.Vairagade, Advocate for Respondent Nos.3 & 4.
Shri P.J.Mehta, Advocate for Respondent No.5.

CORAM : ANIL S. KILOR, J.
DATED : AUGUST 10, 2023.

1. Heard.

2. The order passed by the Divisional Commissioner, dated 20/02/2023 setting aside the order of appointment of the petitioner as Anganwadi Sevika / Madatnis, dated 28/07/2023, is under challenge in this petition.

3. It is submitted that the petitioner was appointed as Anganwadi Sevika (Madatnis) under the Integrated Child Development Scheme and to which the respondent No.5 raised an objection on the ground that the petitioner is not a widow and therefore, 10 marks given to her as widow, cannot be granted. It was pointed out that the petitioner performed second marriage and after that she got divorce by executing Divorce Deed and there is no provision for grant of 10 marks to divorcee. The said

objection was rejected by the Chief Executive Officer. However, in the appeal preferred against the said order, as per the provisions under the Government Resolution dated 13/08/2014 the Divisional Commissioner decided the appeal and thereby held that the petitioner suppressed the fact of second marriage and divorce from the Selection Committee and accordingly set aside the order of appointment issued by the Chief Executive Officer.

4. The learned counsel for the petitioner submits that the Divisional Commissioner has no jurisdiction to entertain any such appeal after the judgment dated 08/11/2019 passed by Full Bench of this Court in the case of Sangita Ulhas Gadilkar in Writ Petition No.4542 of 2011.

5. He further submits that the documents relied upon by the Divisional Commissioner i.e. Certificate of Marriage and also the Divorce Deed cannot be relied upon unless the respondent No.5 proves it as genuine.

6. On the other hand, the learned A.G.P. has drawn attention of this Court to the Government Resolution dated 13/08/2014 wherein the appeal is provided before the concerned Divisional Commissioner. It is submitted that, the Full Bench of this Court did not deal with the said issue. She, therefore, submits that the Divisional Commissioner has jurisdiction to hear and decide such appeals.

7. She further submits that the learned Divisional Commissioner has rightly cancelled the order of appointment of the petitioner as Anganwadi Sevika / Madatnis. She, accordingly, prays for dismissal of the present writ petition.

8. The learned counsel for the respondent reiterates the submissions of the learned A.G.P. and in addition, points out that the voter information shows that the petitioner performed second marriage with one Ravindra Potpalliwar. He therefore, submits that there is an ample evidence available on record to show that she performed second marriage and she was not widow when she was selected therefore, the additional 10 marks given to her as widow cannot be granted.

9. In light of the rival contentions, I have perused the record and the impugned order.

10. The documents viz. Certificate of Marriage, Voter Information and Deed of Divorce show that the petitioner performed the second marriage and subsequently she got divorce.

11. If these documents are created one, there are no pleading that who has created these documents. Moreover, the voter information which is available online also shows that she performed second marriage with Ravindra Potpalliwar.

12. Thus, all these documents, even though not proved, as argued by the petitioner, it creates doubt about the eligibility of the petitioner to get extra 10 marks as widow.

13. In the circumstances, as the Divisional Commissioner has rightly considered the record and all the documents available on record while arriving at a conclusion that by suppressing the fact the petitioner obtained the appointment as Anganwadi Sevika/ Madatnis the said appointment has rightly been cancelled by the Divisional Commissioner. Hence, no interference is required in this matter.

The Writ Petition is **dismissed**. No order as to costs.

JUDGE

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