

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

CIVIL APPLICATION (W) NO. 1610 OF 2023
IN WRIT PETITION NO. 2602 OF 2023

(Kishor s/o Punjaram Autade & Ors. Vs. State of Maharashtra & Ors.)

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

Court's or Judge's order

Shri P.B. Patil, Advocate for the applicants/ petitioners.
 Shri A.S. Fulzele, Additional Government Pleader and Ms N.P. Mehta, Assistant
 Government Pleader for respondent Nos. 1 to 8.
 Shri Madhur Deo, Advocate for the intervenors (CAW 1778/2023).

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : JULY 12, 2023

By this application, petitioner Nos. 11, 18 and 21 pray that respondent Nos. 4 to 6 be directed to send the said petitioners for training at Dound, District – Pune. In the application, it is stated that the other petitioners excluding petitioner Nos. 11, 18 and 21 have been sent for such training and hence there is no reason to deprive the said petitioners from undertaking the necessary training. In the affidavit-in-reply filed by respondent Nos. 4 to 6, it has been stated in paragraph 7 as under :

“7. It is admitted fact that the Applicants have applied at two places, due to which the order of full bench is binding on them. The Respondent No.2 has not so far terminated the Petitioners No. 11, 18 and 21 from service. They are not been sent to the training as the order dated 17.03.2023 is binding on Respondent No.2 and the Respondent No.2 so far has not received any order from this Hon’ble Court about continuation continue the Applicant in service. As the matter is submit only after finalization of the present petition the Applicant will be sent for training. At present the Applicants cannot be sent for training as it will be violative of the orders of learned Maharashtra Administrative Tribunal which is binding on Applicant and Respondent No.2. For one post two set of candidates cannot be recruited and sent for training. Only after finality of the petition, appropriate action can be taken.”

After going through the aforesaid affidavit, the order dated 6/7/2023 which reads as under came to be passed :

“1. One of the contentions raised by the learned counsel for the petitioner is that of the 28 petitioners, 18 have been sent for training by the respondent No.2. The Civil application is preferred by three petitioners who pray that they also be sent for such training.

2. The learned counsel appearing for the petitioners to indicate whether the petitioners, who have been sent for training are similarly situated as petitioners Nos. 11, 18 and 21.

3. Stand over to 12.07.2023.”

2] The learned Counsel for the petitioners does not dispute the fact that petitioner Nos. 11, 18 and 21 had made two applications seeking recruitment and hence their cases are different from the petitioners who have been sent for such training.

3] In this backdrop, we find that the petitioners are not similarly situated as those who have been sent for training. Respondent Nos. 4 to 6 have stated that in case the petitioners succeed in the Writ Petition, appropriate steps for imparting such training would be taken.

4] In view of aforesaid, since it is found that the petitioners are not similarly situated as the other petitioners who have been sent for training, the prayer made in the Civil Application cannot be granted. The Civil Application is therefore rejected.

5] Needless to state that the services of the petitioners stand protected in terms of the order dated 3/5/2023.

WRIT PETITION NO. 2602/2023

6] Stand over three weeks to enable the respondents to file their affidavit-in-replies.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)

SUMIT