

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

Writ Petition No. 5449 of 2022

PETITIONER :

Sonali Sandeep Pudake, aged 23 years, Occ: Housewife/Farmer, R/o Hiwara, Tah. Gondpipari, District-Chandrapur.

-Versus-

RESPONDENTS:

1. The State of Maharashtra, Ministry of Women and Child Development, through its Principal Secretary, 3rd Floor, New Administrative Building, Madam Kama Road, Hutatma Rajguru Chowk, Mumbai-400032.
2. Divisional Commissioner, Nagpur Division, Nagpur.
3. The Chief Executive Officer, (Women and Child Development), Zilla Parishad Chandrapur, Tah.and District-Chandrapur.
4. Child Development Project Officer, Gondpipari, Panchayat Samiti Gondpipari, Tah. Gondpipari, District-Chandrapur.
5. Mrs.Priya Devanand Neware, Aged about 23 years, Occ:-

Farming/Housewife, R/o Hiwara,
Tah. Gondpipari, District-
Chandrapur.

Mr.Amol Mardikar, counsel for the Petitioner.
Ms H.N.Jaipurkar, AGP for the respondent Nos.1, 2 and 4.
Mr. S.R.Agrawal, counsel for respondent No.3.
Mr. P.J.Mehta, counsel for respondent No.5.

CORAM : ANIL S. KILOR, J.
DATED : 05.01.2023.

ORAL JUDGMENT

Heard.

2. **Rule.** Rule made returnable forthwith. The writ petition is heard finally with the consent of the learned counsel for the parties.

3. In the present writ petition a challenge is raised to the order dated 25/08/2022, passed by the Divisional Commissioner upholding the order passed by the Chief Executive Officer (respondent No.3) dated 02/06/2022 declaring the appointment of the petitioner on the post of *Anganwadi Sevika* as improper.

4. I have heard the learned counsel for the respective parties.

5. Mr. Amol Mardikar, learned counsel for the petitioner, submits that as per the Government Resolution dated 13/08/2014, limitation of thirty days is given to raise an objection to the select list, however, in the present case, though the petitioner was selected on 26/08/2021 and thirty days period was lapsed on 26/09/2021, no objection was raised by respondent No.5 to the appointment of the petitioner. The respondent No.5, first time raised objection on 12/10/2021, beyond the period of limitation. It is submitted that the respondent No.3-Chief Executive Officer while declaring the appointment of the petitioner as improper and illegal, did not deal with the issue of limitation, though he has observed that the petitioner raised the objection as regards the limitation and the respondent No.5 prayed for condonation of delay. He further submits that even in the appeal, respondent No.2-Divisional Commissioner has not

considered the said point and as such both the orders are not sustainable in the eyes of law.

6. Ms H.N.Jaipurkar, learned AGP for respondent Nos.1, 2 and 4 supports the order passed by respondent No.2-Divisional Commissioner. Mr. S.R.Agrawal, learned counsel for respondent No.3-Chief Executive Officer, also supports both the impugned orders.

7. Mr. P.J.Mehta, learned counsel for respondent No.5, submits that at the relevant time respondent No.5 was pregnant and therefore, she could not file the objection within time and considering the said fact, respondent No.3-Chief Executive Officer entertained the objection and decided in favour of respondent No.5. Accordingly, he submits that there is no error committed by both the Authorities.

8. I have perused the record and the impugned orders. From the order of respondent No.3-Chief Executive Officer, dated 02/06/2022, it is evident that though he recorded the submission of both the parties, i.e. the petitioner and respondent

No.5 about delay in filing the objection. The limitation of 30 days is provided under the Government Resolution dated 13/08/2022, however, there is no finding recorded or there is no order as regards condoning the delay. It is also evident that though the application was filed by respondent No.5 for condonation of delay, no order was passed on the said application or even there is no mention of any such order in the operative part of the impugned order dated 02/06/2022.

9. Similarly, the said point was not considered by respondent No.2-Divisional Commissioner, while entertaining and deciding the appeal preferred by the petitioner. In the circumstances, I am of the opinion that the matter needs to be remanded back to respondent No.3-Chief Executive Officer for deciding the same afresh. Accordingly, I pass the following order.

ORDER

- (1) The writ petition is partly allowed.
- (2) The order passed by respondent No.2-Divisional Commissioner dated 25/08/2022 and the order passed

by respondent No.3-Chief Executive Officer dated 02/06/2022 are hereby quashed and set aside.

- (3) The respondent No.3-Chief Executive Officer is directed to decide the application filed by the objector/respondent No.5 for condonation of delay afresh, after hearing both the parties and the objection on merit if the delay is condoned within two months from today.
- (4) As a natural consequences, the appointment order dated 07/09/2022 issued to the respondent No.5 is hereby quashed and set aside.
- (5) No order as to costs.

[ANIL S. KILOR, J.]