



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

**942 WRIT PETITION NO. 8259 OF 2024
(Board dt.06.08.2024)**

**SITARAM BHADAJI BHANGARE AND ANOTHER
VERSUS
STATE OF MAHARASHTRA THROUGH SECRETARY FOR
RURAL DEVELOPMENT AND OTHERS**

...

Shri Parikshit Mantri, Advocate a/w Shri Barde Parag Vijay,
Advocate for the Petitioners.

Shri V.M. Kagne, AGP for Respondent Nos.1 to 3/State.

Shri A.D. Aghav, Advocate for Respondent Nos.4 and 5/ZP.

...

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

DATE :- 07th August, 2024

Per Court :-

1. These are the two Petitioners, who have put forth
prayer clauses A, B and C, as under:-

- “A) *By Issuing appropriate writ, order, direction or any other order in the nature of writ, Hon'ble High Court may be pleased to quash and set aside the communication dated 22.08.2024 having outward no 5302/2024 qua petitioners issued by respondent no. 6 thereby referring petitioners to the Dean of Sasun Hospital at Pune.*
- B) *By issuing appropriate writ, order, direction or any other order in the nature of writ, Hon'ble High Court may be pleased to prohibit the Respondents from Medical reexamination and*

reverification of their certificates again and again as it is in direct violation of the act of 2016.

- C) *Pending hearing and final disposal of this Writ Petition, Hon'ble High Court may be pleased to stay the effect, implementation, execution and operation of communication dated 22.08.2024 having outward no 5302/2024 petitioner issued by respondent No. 6. thereby referring the petitioners to the Dean of Sasun Hospital Pune."*

2. We have considered the submissions of the learned Advocates for the respective sides. The Zilla Parishad has vehemently opposed this petition contending that the Zilla Parishad received some anonymous complaints that many of its employees are not actually handicapped. Therefore, all such employees, who are in service and have disability certificates, are being subjected to further medical examination.

3. The intention of the Zilla Parishad cannot be doubted. If there are several complaints indicating that several employees are not actually handicapped, but are pretending to be handicapped or have certificates acquired indicating that they are handicapped, such cases need to be investigated. However, the cases wherein the very recruitment occurred more than 10 or 15

years ago and the very induction in employment was on the basis of the proved disability, it would be far fetched to subject such employees to the medical examination, after more than 15 years of joining employment. Nevertheless, if the candidates had joined duties as normal persons and acquired disability certificates later on, or if the documents appear to be suspicious or doubtful, the ZP can refer the candidates to the medical examination and such action need not be interfered.

4. In the present case, Petitioner No.1 (Sitaram Bhadaji Bhangare), was issued with an appointment order on 01.08.2006, by the Zilla Parishad, Ratnagiri. He had applied from the Disabled Category. His documents were verified and he was issued with an appointment order. We have perused the Disability Certificate of Petitioner No.1 dated 12.06.2001. He had 40% disability due to Polio after birth. A three members Medical Board headed by the Civil Surgeon had issued the certificate five years prior to the appointment of Petitioner No.1. The District Hospital at Ahmednagar had also issued the certificate dated 22.05.2007, which comprised of three doctors. Again Petitioner No.1 received the certificate from the General Hospital,

Ratnagiri dated 11.12.2013, confirming his handicap. The Government of Maharashtra has issued the Disability Certificate to Petitioner No.1 on 06.12.2016, wherein, the diagnosis is mentioned as 'Post Polio Residual Paralysis (PPRP) Left Lower Limb'.

5. In the case of Petitioner No. 2 (Pramod Chikhale), he was issued with an appointment order, on 01.06.2007. The appointment order indicates that he belonged to the Scheduled Tribe (ST) Category. His medical certificate dated 13.02.2007, prior to his appointment, indicates 'high myopia' and the disability is 40%. He also received the medical certificate from the District Hospital, Ahmednagar, comprising of three members of the Medical Board headed by the Civil Surgeon, dated 30.01.2013, confirming 'high myopia'. One more certificate issued by the Government of Maharashtra, dated 23.05.2018, confirms visual impairment in both eyes and the diagnosis is 'BE Degenerative Myopia'. The condition is said to be permanent, non progressive and not likely to improve.

6. In these circumstances, we do not find that the Zilla

Parishad is justified in directing these two Petitioners, in the peculiar facts and circumstances of this case, for a re-medical examination.

7. **The Writ Petition is allowed** and the impugned order/ communication dated 22.08.2024, qua the Petitioners, is quashed and set aside.

kps

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)