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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

60 WRIT PETITION NO. 9501 OF 2024
(SARFRAZ KHA MANGU KHA TADVI VS. THE STATE OF
MAHARASHTRA THROUGH SECRETARY AND OTHERS)
AND
WRIT PETITION NO.9534 OF 2024
(KUSUM PANDIT PADVI VS. THE STATE OF MAHARASHTRA THROUGH
SECRETARY AND OTHERS)
AND
WRIT PETITION NO.9535 OF 2024
(SHALINI SHESHRAO GAVAI VS. THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS)
AND
WRIT PETITION NO.9550 OF 2024
(KHALIL AHEMAD MOHAMMED ZAHIR VS. THE STATE OF
MAHARASHTRA THROUGH SECRETARY AND OTHERS)

Mr.A.R.Syed, Advocate for the Petitioners.
Mr.N.S.Tekale, Mr.M.M.Nerlikar, AGPs' for Respondent/State.
Mr.A.R.Nikam Advocate for the Respondent / Commissioner,
Maharashtra State Council of Examination.
Mr.V.V.Gujar, Advocate for the Respondent Nos. 5 and 6/Zilla Parishad,
Jalgaon.

(CORAM : RAVINDRA V. GHUGE AND
Y.G.KHOBRADE, JJ.)

DATE : SEPTEMBER 3, 2024

PER COURT :

1. In all these matters, the Petitioners were issued with
appointment orders by the Zilla Parishad, dated 07.03.2024. Terms
and conditions of the appointment orders on probation, are set out

from Sr.No. 1 to 18. By these Petitions, the Petitioners desire that Clause No.16 of their appointment order on probation, should be deleted.

2. Clause 16 reads as under :-

“16. टीईटी घोटाल्यामध्ये नाव समाविष्ट असल्यास अथवा भविष्यात निदर्शनास आल्यास सेवा समाप्त करणेत येवून फौजदारी गुन्हा दाखल करणेत येईल.”

3. The learned Advocate appearing on behalf of the Zilla Parishad submits that in service jurisprudence, it is within the domain of the employer, that he may find the character of the employee appointed on probation, to be tainted or doubtful. After the probation order is issued, an opportunity of hearing can be granted and thereafter an order can be passed. He submits that a show cause notice has been issued to the Petitioners after the Cyber Cell has supplied information to the Zilla Parishad that the Petitioners' actual marks in the TET examination are much less and they have been increased in the marks memo (which carries different marks). According to the Zilla Parishad, if the character of a freshly appointed employee, which is in public domain, is found to be tainted and doubtful, the employer has a right

to consider whether such a candidate is suitable for the organization.

4. The Petitioners have rushed to this Court after tendering their replies to the Zilla Parishad. They have not even waited for the Zilla Parishad to apply its mind to their replies and conclude with a reasoned order. If the employer has developed an apprehension that the character of a newly appointed Probationer is doubtful, the employer may look into the issue. Since the Zilla Parishad has already given a show cause notice to the Petitioners, the Zilla Parishad can apply its mind after the replies are tendered, and take a judicious decision. The High Court need not interject at this stage.

5. The Petitioners rely upon an order dated 10.05.2024 passed by this Court in **WP No.640/2024 (Kavita Paras Gupta and Others Vs. The State of Maharashtra, through Principal Secretary and Others)**. In this matter, the Petitioners were working in the Brihan Mumbai Municipal Corporation. After the matters were transferred to this Court by the Principal Seat, the termination orders were issued on 2 applicants. The order indicates that the termination orders were issued without granting an opportunity of hearing to those Petitioners.

In the present cases, the Zilla Parishad has already issued notices to the Petitioners presenting the material, that they have received, before the Petitioners for their response. Instead of Zilla Parishad deciding the issue, this Court cannot interject and step into the shoes of the Employer to take a decision on behalf of the Zilla Parishad.

6. In view of the above, **these Writ Petitions are disposed off.** Needless to state, the Zilla Parishad would consider the replies filed by the Petitioners by applying it's mind and if an adverse order is to be passed, such order should contain reasons.

7. We have only discussed the Law in this order and the C.E.O., Zilla Parishad shall not be influenced by any observations that we have made.

(Y.G.KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)