

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 6564 OF 2021

Baliram Tukaram Rathod.

... Petitioner.

V/s.

The State of Maharashtra and others.

... Respondents.

Mr.Narendra Bandiwadekar with Mr.Aniket S. Phapale i/b.

Mr.Vinayak Kumbhar for the Petitioner.

T.J.Kapre, AGP for the State.

Ms.Aditi Naikare for Respondent No.2.

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**CORAM : NITIN JAMDAR, AND
M.M. SATHAYE, JJ.**

DATE : 23 February 2024.

P.C. :

Heard the learned counsel for the parties.

2. In view of the stand taken by Respondent No.3, it is not necessary to detail the facts of the case. Briefly stated, both, the Petitioner and Respondent No.3 are working with Respondent No.2- Ratnagiri Zilla Parishad. The Petitioner who was issued an order of promotion on 14 October 2016 came to be reverted by the impugned order dated 1 October 2021. The order of reversion refers to the complaint filed by Respondent No.3 who is also aspiring to the promotional post of Extension Officer (Education) Grade-3.

In the reply affidavit filed by Respondent No.3, the proceedings of the hearing that took place before the impugned order was passed have been annexed. Though Respondent No.3 was present in the said hearing the Petitioner was not present as the Petitioner was not given any notice. Clearly, therefore, the impugned order was passed in breach of the principles of natural justice.

3. On 7 October 2021, the Division Bench issued notice to the Respondents regarding this very grievance of the Petitioner and granted ad-interim relief which has been continued till date. In spite of service of notice, none appears for the Zilla Parishad. The learned counsel for Respondent No.3 states that if the matter is to be sent back to the Authority, a time-bound programme be fixed. The learned Senior Advocate for the Petitioner submits that apart from breach of principles of natural justice the question will also arise of the jurisdiction of the Authority who passed the impugned order, if the matter is to be relegated to the said Authority. In these circumstances, we dispose of the petition by the following order.

4. The impugned order dated 1 October 2021 is quashed and set aside. The complaint made by Respondent No.3 dated 19 July 2021 stands restored to the file. Copy of the complaint be furnished to the Petitioner. The Petitioner will be entitled to file written representation taking all such grounds that may be available including the ground of jurisdiction of Chief Executive Officer.

Upon perusal of the representation, the Chief Executive Officer will decide the matter including the question raised by the Petitioner about jurisdiction which we have kept open, and thereafter proceed to pass necessary orders. The Petitioner and Respondent No.3 will co-operate for early disposal of the proceeding. Subject to earlier time-bound directions and urgent public duties of the Chief Executive Officer, let a decision be taken within a period of twelve weeks. The Chief Executive Officer in the order will state that the order will come into effect in two weeks from the date of the order to give sufficient time to the parties to pursue their remedies.

5. Writ petition is disposed of in the above terms.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)