



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

Writ Petition No. 3876 of 2023

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

... Petitioner

- Versus -

- (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.

... Respondents

Mr. Amol S. Mardikar, Advocate for the petitioner
Mrs. S. S. Jachak, AGP for the State/respondent nos. 1 and 2
Mr. P. R. Karekar, Advocate for respondent nos. 3 and 4
Mr. P. J. Mehta, Advocate for respondent no. 5

CORAM : ANIL L. PANSARE, J.

Date of reserving judgment : 25-07-2024

Date of pronouncing judgment : 30-07-2024

JUDGMENT

The petitioner was appointed as Anganwadi Sevika. She is aggrieved by the order passed by respondent no. 2 – Divisional Commissioner, Nagpur Division, Nagpur thereby upholding the orders dated 14-2-2023 and 3-3-2023 passed by respondent no. 3 – Chief Executive Officer, Zilla Parishad, Chandrapur.

2. Learned counsel for the petitioner submits that on 26-8-2021, the select list of Anganwadi Sevika was published and the petitioner secured 1st in rank and was accordingly selected. The objection to the appointment, if any, could have been taken within 30 days from the date of appointment, in terms of clause 6(A) of the Government Resolution (G.R.) dated 13-8-2014. Respondent no. 5 for the first time raised objection on 12-10-2021 which is beyond the period of 30 days.

3. The Divisional Commissioner has, by referring to the judgment of Hon'ble Supreme Court in *Suo Motu Writ Petition (C) No. 3 of 2020 Re : Cognizance for extension of limitation, dated 10-1-2022*, condoned the delay on the ground that the Supreme Court has directed

to exclude the period from 15-3-2020 to 28-2-2022 for limitation purposes.

4. Mr. Amol Mardikar, learned counsel for the petitioner submits that the aforesaid order of the Supreme Court is not applicable to the orders passed in administrative capacity. In other words, it is suggested that the orders impugned have been passed in administrative capacity. He has then invited my attention to paragraph 6(A) of G.R. dated 13-8-2014 to contend that the procedure laid down in G.R. is administrative in nature.

5. The G.R. pertains to the modified terms and conditions while making appointment of Anganwadi Sevika. Clause 6(A) thereof provides for complaints/appeals against the selection process. It provides that a candidate having any grievance against the selection of Anganwadi Sevika, can file objection within 30 days from the date of publication of select list.

6. In the present case, the select list has been published on 26-8-2021. The objection, if any, therefore, ought to have been taken by 25-9-2021. Respondent no. 5, however, raised objection on 12-10-2021. Hence, according to the petitioner, the objection was not

maintainable, particularly when the entire act was administrative in nature.

7. Learned counsel for the petitioner has placed reliance on following authorities in support of the contentions that the provisions of Limitation Act, 1963 particularly, Section 5 thereof are not applicable to the administrative proceedings.

(1) *Sakuru Vs. Tanaji [(1985) 3 SCC 590]*,

(2) *Satish Balaram Jadhav and ors. Vs. State of Maharashtra and anr. [2018(1) Mh.L.J.(Cri.) 589]* and

(3) *National Spot Exchange Ltd. Vs. Anil Kohli [(2022) 11 SCC 761]*.

8. Learned Additional Government Pleader along with learned counsels for other respondents have supported the order passed by the authorities below by contending that the powers exercised by the authorities below were quasi-judicial and, therefore, the period mentioned by the Supreme Court in *suo motu* writ petition has been rightly excluded by the authorities below.

9. Learned counsel for respondent nos. 3 and 4 has relied on the case of *Laxman Purshottam Pimputkar Vs. State of Bombay [AIR 1964 SC 436]* to contend that the powers exercised by the authorities below are quasi-judicial in as much as the G.R. under question provides

for process to lodge complaint and also appeal against the order passed on the complaint. G.R. further provides that the authorities below shall give opportunity of hearing to the complainant and, therefore, the procedure must be considered as quasi-judicial in character.

10. Respondent no. 5 has relied upon the case of *Indian National Congress (I) Vs. Institute of Social Welfare and others [AIR 2002 SC 2158]* to contend that test which distinguishes administrative function from quasi-judicial function is, the authority, who acts quasi-judicially is required to act according to the rules, whereas the authority which acts administratively is dictated by the policy and expediency.

11. Having given thoughtful consideration to the submissions made by both the sides and having gone through the order impugned, it appears that the Divisional Commissioner has given opportunity of hearing to both the sides viz. petitioner and respondent no. 5 and thereafter has taken a decision by applying her mind. In that sense, the order under question appears to be quasi-judicial. The authorities cited by the petitioner will be, therefore, not applicable. Further the exclusion of period between 15-3-2020 till 28-2-2022 in the cases where limitation expired will have to be considered in the background in which such exclusion was made.

12. The Hon'ble Supreme Court in March, 2020 took *suo motu* cognizance of the difficulties that might be faced by the litigants in filing petitions/applications/suits/appeals/all other quasi proceedings within the period of limitation prescribed under the general law of limitation or under any special laws due to the outbreak of the COVID-19 pandemic. The challenge was unprecedented. The entire world rattled with uncertainties. The movements were restricted. In the circumstances, the benefit of exclusion of period for limitation will have to be extended to the persons like respondent no. 5. The authorities below thought it proper to extend the benefit of the order passed by the Hon'ble Supreme Court in the proceedings under question, which, in my considered view, is not an error apparent on the face of record or an error of law. No interference is, therefore, called for in writ jurisdiction. Writ petition is accordingly dismissed.

(Anil L. Pansare, J.)

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