



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

WRIT PETITION NO.2461 OF 2023

Rani Bapu Sawant,
Age: 30 years, Occu: Household,
R/o. Langotwadi, Tq. Paranda,
Dist. Osmanabad

....PETITIONER

VERSUS

1. Additional Divisional Commissioner,
Division Aurangabad,
Tq. & Dist. Aurangabad.
2. Child Development Officer,
Integrated Child Development Service,
Paranda Tq. Paranda,
Dist. Osmanabad.
3. Chief Executive Officer,
Zilla Parishad, Osmanabad
4. Rekha Prakash Deore,
Age: Major Occu: Anganwadi Madatnis,
R/o. Langotwadi, Tq. Paranda,
Dist. Osmanabad.

....RESPONDENTS

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Mr. D. A. Mane, Advocate for petitioner
Mr. D. R. Korade, AGP for respondent Nos.1 & 2-State
Mrs. S. S. Renge (Doke), Advocate for respondent No.3
Mr. V. M. Chate, Advocate for respondent No.4

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 06.08.2025

ORDER :-

1. The present writ petition takes exception to order dated 29.07.2022 passed by learned Additional Divisional Commissioner, Aurangabad, in case No.221/ZPVP/Appeal-2/CR-39.

2. The petitioner was a candidate for appointment on the post of Anganwadi Madatnis under the establishment of Zilla Parishad, Osmanabad. Her name was appeared in select list. However, respondent No.4 raised objection as to eligibility of petitioner to seek appointment on the ground that she is age barred. The Chief Executive Officer, Zilla Parishad dealt with such objection in terms of clause 6 (A) of Government Resolution dated 31.08.2014, which prescribes procedure for appointment of Anganwadi Sevika/Madatnis, so also procedure for redressal of grievances as regards to appointment process and remedies of appeal against orders passed by Competent Authorities while dealing with complaints. The Block Development Officer accepted grievance of respondent No.4 and held that petitioner is disqualified as age barred. Even Chief Executive Officer concurred with him. Hence, petitioner filed appeal before learned Additional Divisional Commissioner, Aurangabad against order passed by learned Chief Executive Officer/Respondent No.3, who dismissed appeal, upholding decision of Chief Executive Officer. Hence, this writ petition.

3. Mr. D. A. Mane, learned Advocate appearing for petitioner submits that impugned order is passed ignoring birth certificate depicting correct date of birth, so also correct entries in petitioners school record. He would submit that respondent No.1 erroneously observed that delay caused in filing appeal is not properly explained. According to Mr. Mane, appeal

could not have been rejected on the ground of delay, as there was sufficient explanation on record, particularly when delay was attributable to Covid pandemic situation and lock down period.

4. Mr. V. M. Chate, learned Advocate appearing for respondent No.4 and Ms. S. S. Renge, learned Advocate appearing for respondent No.3 supports impugned order.

5. Having considered submissions advanced by learned Advocates, it can be observed that respondent No.1 dismissed appeal filed by petitioner on merits as well as on account of delay. It is trite law that if an appeal is time-barred, there is no reason to enter into merits of the matter. In present case, respondent No.1 observed in paragraph No.7 of the order that appeal is barred by limitation and delay of 702 days is not properly explained. Similarly, in paragraph Nos.2 to 6 of order, merits of the matter are discussed. Such a course followed by respondent No.1 is contrary to the established procedure of law.

6. The stipulations in Government Resolution dated 31.08.2014, particularly Clause 6 (A), deals with procedure to be followed in appeal. As per Government Resolution, an appeal needs to be filed within a period of 60 days against order passed by Chief Executive Officer of Zilla Parishad. The provisions of Government Resolution are silent on the point of power to condone delay. In such contingency, the question that arises for

consideration is whether an appeal can be entertained after 60 days. Further, whether benefit of Covid period and exemption from limitation, as directed by Hon'ble Supreme Court of India, is available to petitioner. It appears that, Chief Executive Officer passed order on 06.01.2020, although it refers typed date of November 2019. Therefore, if the period of 60 days for filing appeal is to be counted, it should be from the date of communication of order to petitioner. Since there was Covid situation from March 2020, the period for filing any proceeding was exempted by orders of Hon'ble Supreme Court in Suo Motu Writ Petition No. 03 of 2020, petitioner may get benefit of such exemption.

7. So far as merits of the matter are concerned, it is argued before this Court that correct date of birth is recorded by the Competent Authority under the Birth and Death Registration Act, 1969, read with Rule 18(13) of Maharashtra Registration of Births and Deaths Rules, 2000. Further, correction of birth date is made in secondary school certificate and Gazette publication is also given. All these aspects were required to be considered by respondent No.1 while deciding appeal.

8. In light of aforesaid anomalies in the order passed by respondent No.1, this Court deems it appropriate to partly allow writ petition by setting aside impugned order and relegate matter for fresh consideration to respondent No.1.

9. In result, following order is passed:

::ORDER::

- a. The writ petition is partly allowed.
- b. The impugned order dated 29.07.2022 passed by learned Additional Divisional Commissioner, Aurangabad in case No. 221/ZPVP/Appeal-2/CR-39 is hereby quashed and set aside.
- c. The matter is relegated to learned Additional Divisional Commissioner, Aurangabad for fresh consideration on its own merits in light of observations made herein above.
- d. Parties to appear before learned Additional Divisional Commissioner, Aurangabad on 25.08.2025.
- e. The learned Additional Divisional Commissioner to expeditiously decide appeal after hearing concerned parties and in any case, within a period of four (04) months from the date of this order.

[S. G. CHAPALGAONKAR, J.]

HRJadhav