

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1367 OF 2022

Smt. Kusum Ashok Waghmare

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr. A. S. Shelke, Advocate for the petitioner.

Mr. S. G. Karlekar, AGP for respondent Nos. 1 and 2.

**CORAM : RAVINDRA V. GHUGE &
ANIL L. PANSARE, JJ.**

DATE : 30th JUNE, 2022.

PER COURT :

1. On 28th June, 2022, we had passed the following order :-

1. We have perused the impugned order dated 05/10/2021, passed by the Education Officer (Secondary), Zilla Parishad, Nanded. We find that, though he has referred to the Judgment of this Court, dated 11/08/2021, delivered in Smt. Yogita Shivsing Nikam vs. State of Maharashtra and others, he has stated that guidance is sought from the Government as regards the said Judgment, and therefore, he cannot grant approval to the

compassionate appointment of the petitioner. This order is apparently contemptuous.

2. In view of the above, Shri Prashant Prakashrao Digraskar shall appear before this Court tomorrow i.e. 29/06/2022.

3. List this petition in the 'urgent admissions' category, on 29/06/2022.

2. On 29th June, 2022 and today, this matter was heard. Shri Prashant Digraskar, Education Officer (Secondary), Zilla Parishad, Nanded, is present in the Court.

3. Having considered the record and more specifically the order dated 11th October, 2021, delivered in Smt. Yogita Shivsing Nikam vs. State of Maharashtra and others, 2022(2) Mh.L.J. 370, the conduct of the Education Officer is apparently contemptuous. He has filed an affidavit dated 29th June, 2022, and tendered an apology. Along with the same, he has placed on record an order dated 28th June, 2022, in which, he has granted approval to the petitioner as a Sewak for the period from 1st February, 2017 till 31st January, 2020, in the light of the Government Resolution dated 25th November, 2015.

However, he has shrewdly mentioned in Column No. 6 of the order that he has granted approval as the High Court has directed him to do so. This indicates his unfair conduct. Infact, we were convinced that this Education Officer deserves to be punished under the Contempt of Courts Act since his defence is that he was waiting for guidance of the Government, which is not only a lame excuse, but a hopeless defence. He is aware that he is within his powers in granting approval to the petitioner who is a widow and has been appointed as a Peon on compassionate basis with effect from 1st February, 2017, after her husband passed away on 3rd October, 2014.

4. The learned AGP has urged us to pardon the Education Officer and has brought our attention to his statement in the affidavit that he would not repeat such mistake any time in future, that we are inclined to avoid initiating *suo motu* contempt of Court proceedings. However, we are of the view that the Education Officer cannot go unpunished and we are imposing cost of Rs. 25,000/-. The learned AGP has taken instructions from Mr. Digraskar in the open Court and submits that he agrees to pay the said amount by Demand Draft from his salary account, to the petitioner, directly.

5. In view of the above, this petition is partly allowed. The impugned order dated 5th October, 2021, refusing to grant approval to the petitioner is quashed and set aside.

6. Needless to state, as the petitioner is now entitled for regular salary as per the pay scale applicable, respondent Nos. 3 and 4, who are served with Court notice and yet not caused appearance, need a direction to forward the proposal for regular approval and for entering the name of the petitioner in the Shalarth Pranali so as to process her arrears of salary.

7. We, therefore, direct respondent Nos. 3 and 4 to take appropriate steps to get approval to the appointment of the petitioner as a permanent employee with effect from 1st February, 2017 and payment of arrears of pay scale. This exercise shall be completed by respondent Nos. 3 and 4 in coordination with respondent No. 2, on or before 30th August, 2022.

Directions to the State Government

8. Before we part with this case, we need to take note of the Government Resolution dated 25th November, 2015, brought to our notice by the learned AGP. On internal page No. 9 pertaining to Class IV employees, it indicates that after a full time Class IV employee is appointed, he/she would be entitled for Rs. 1,700/- per month for the first three years. It is only after three years that the employee would be entitled for a regular pay scale which is seen from Clause No. 4 below Annexure B which is at page No. 17 of the said Government Resolution. The said Government Resolution is taken on record and marked as 'X-1' for identification.

9. Our conscience is shocked by a fact that a person made of flesh and bones and having a family to support, is expected to survive in Rs. 1,700/- for a whole month. On instructions from Mr. Digraskar, the learned AGP submits that the Education Officer is not aware as to whether there has been any revision in such consolidated honararium. He further informs us by stating that a Shikshan Sewak (Primary) is paid Rs. 6,000/- per month and a Shikshan Sewak (Secondary) is paid Rs. 8,000/- per month, for the

first three years before he could become an Assistant Teacher. We find it impossible for any human being with a family of at least four persons to live their life with dignity, comfort and satisfaction, by keeping his mind, body and soul together, in a paltry amount of Rs. 1,700/-, Rs.6,000/- or Rs. 8,000/-.

10. We are, therefore, of the view that the Principal Secretary, Education Department, State of Maharashtra and the Principal Secretary, Rural and Urban Development Department, State of Maharashtra, have to initiate steps to ensure that these quantified/consolidated payments are revised at least to the level of minimum rates of wages which are payable to Class IV employees in any form of industry and consider periodical revision at least once in four years. They should be paid at least, in between Rs.15,000/- to Rs. 20,000/- per month.

11. We request the learned Registrar (Judicial) of this Court to place a copy of this judgment before the Chief Secretary, State of Maharashtra and all Principal Secretaries, Department of Education, Rural and Urban Development, State of Maharashtra, so as to adopt effective steps towards revising such consolidated wages.

12. We expect compliance of this order as expeditiously as possible, and preferably on or before 15th October, 2022. A compliance report shall be placed before this Court in the third week of November, 2022.

(ANIL L. PANSARE)
Judge

(RAVINDRA V. GHUGE)
Judge

dyb