



Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST) NO. 7656 OF 2023

Anganwadi Karmachari Sanghatana & Ors ...Petitioners
Versus
The State of Maharashtra & Ors ...Respondents

Ms Gayatri Singh, Senior Advocate, with Meenaz Kakalia & Hamza Lakdawala, for the Petitioners.
Mrs PJ Gavhane, AGP, for Respondents Nos. 1 & 3-State.
Mr Rui Rodrigues, with Ashutosh Mishra, for Respondent No. 2-UOI.

CORAM G.S. Patel & Neela Gokhale, JJ.
DATED: 24th March 2023

PC:-

1. Respondents waive service.
2. The challenge in the Petition is to a Government Resolution (“GR”) dated 2nd February 2023. By this GR, the minimum qualifications for the post of an Anganwadi Sevika and mini Anganwadi Sevika have been changed from, respectively 10th to 12th standard, and for Anganwadi helpers from 7th to 12th standard or grade. The argument is that this obliterates the distinction between the Anganwadi Sevika and Anganwadi helpers altogether in terms of the eligibility qualification.

ARUN
RAMCHNDRA
SANKPAL

Digitally signed by
ARUN RAMCHNDRA
SANKPAL
Date: 2023.03.27
11:06:00 +0530

3. It is also argued that avenues for promotion to Anganwadi helpers, i.e., their progress to Anganwadi workers is also threatened because of the enforcement of these new minimum qualifications. Further, the increased qualifications are being made applicable retrospectively to Mini Anganwadi workers and helpers.

4. Ms Singh explains that this will probably result in all these Anganwadi workers and helpers losing from jobs because they do not meet the new minimum qualifying standards. The result will be the creation of number of vacancies and that these will be filled, instead of by promotion, by direct recruitment from outside.

5. There is also a challenge on the basis that a two-child policy is being rigidly implemented in the recruitment process.

6. Undoubtedly Ms Gavhane will need time to take instructions. These may be matters of policy but if the challenge is to the GR itself, it will have to be seen whether the GR is reasonable or whether it invidiously discriminates against the Petitioners.

7. We cannot prevent the operation of the GR in full. However, until the next date, we direct that the present Anganwadi workers and helpers are not to be removed from their current positions.

8. If the process of filling in vacancies is taken up before the next date, then any vacancies should be filled only from the existing cadre. The reason we say this is that if the vacancies are filled from outside, the present Petition might well be rendered infructuous.

However, we make it clear that this order is on a without prejudice and no equities basis. The Petitioners will not be heard to complain if the challenge fails and the necessary consequences follow. If promotions are being considered to fill vacancies, then that will be on the basis of the earlier qualifications and not the revised qualification, and even that promotion will be made expressly subject to the outcome of this Petition.

9. We appreciate that there is some urgency in the matter because the question of recruiting or promoting the Anganwadi workers and helpers cannot be delayed or kept on hold. They perform an essential service throughout Maharashtra related to mother and child development among other aspects.

10. For these reasons, this order is continued until the next date, 18th April 2023.

11. The Affidavit in Reply is to be filed and served on or before 10th April 2023. A Rejoinder, if any, is permitted by 13th April 2023.

12. List the matter on 18th April 2023.

(Neela Gokhale, J)

(G. S. Patel, J)