

(2015) 03 BOM CK 0090

In the Bombay High Court

Case No : Writ Petition No. 5779 of 2014

Lilabai Vasant Talekar

APPELLANT

Vs

The Chief Executive Officer Zilla Parishad

RESPONDENT

Date of Decision : 03-03-2015

Acts Referred:

Citation : (2015) 5 ALLMR 400 : (2015) 2 BomCR 714 : (2015) 3 MhLj 196

Hon'ble Judges : C.V. Bhadang, J.;V.A. Naik, J.

Bench : Division Bench

Advocate : S.S. Pakale i/b A.R. Belge, for the Appellant; S.S. Bhende, Assistant Government Pleader, Advocates for the Respondent

Final Decision : Allowed

Judgement

V.A. Naik, J.—Rule. Rule made returnable forthwith. The petition is heard finally as the notice for final disposal was issued by the order dated 11.2.2015 and the respondents are duly served with the notice.

2. By this petition, the petitioners seek a direction to the respondent No. 1 - Zilla Parishad, Pune to act upon the order dated 1.2.2011 and employ the petitioner in its service on the same terms and conditions on which the petitioner is working as a primary teacher in the respondent No. 2 - Zilla Parishad, Ratnagiri.

3. The petitioner was appointed as a Shikshan Sevak by Zilla Parishad, Ratnagiri w.e.f. 15.6.2007. The petitioner is now discharging the duties as an assistant teacher in Zilla Parishad, Ratnagiri. The State Government has by the resolution dated 29.3.2009 framed a policy for placing the husband and wife in the same Zilla Parishad or in a nearby Zilla Parishad. The petitioner submitted an application dated 8.12.2010 to Zilla Parishad, Ratnagiri and sought her transfer in a school in Zilla Parishad, Pune as the petitioner's husband is working as a primary teacher with the Pune Zilla Parishad. The Education Officer, Ratnagiri forwarded the proposal of the petitioner to the Pune Zilla Parishad and by an order dated 1.2.2011, Zilla Parishad, Pune decided to appoint the petitioner on

the post of assistant teacher on the same terms and conditions. According to the petitioner, despite the order of Zilla Parishad, Pune, the Zilla Parishad, Ratnagiri has not permitted the petitioner to join her duties with Zilla Parishad, Pune. In this background, the petition seeking the aforesaid relief is filed.

4. On hearing the learned Counsel for the petitioner and the learned Assistant Government Pleader appearing for the Respondent No. 3, and on perusal of the documents annexed to the petition, it appears that the prayer made by the petitioner needs to be granted. By the Government Resolution dated 29.3.2009, which is modified by the resolution dated 29.9.2011, the State Government, has framed a policy for uniting the husband and wife working in two Zilla Parishads by transferring one of them to the Zilla Parishad, where the other is working. For an effective implementation of the policy, some guidelines have been issued by the State Government by the Government Resolution dated 29.9.2011. It appears that the application made by the petitioner on the basis of the Government Resolution dated 29.3.2009 was favourably considered by the Respondent No. 1 - Zilla Parishad and the Pune Zilla Parishad appointed the petitioner on the post of the Assistant Teacher in Pune Zilla Parishad by an order dated 1.2.2011. It is stated in the order dated 1.2.2011 that the petitioner would be absorbed in the post which falls vacant by promotion or superannuation. The no objection certificate cum appointment order issued by the Pune Zilla Parishad to the petitioner on 1.2.2011 has not been implemented till date.

5. Neither the Respondent No. 1 nor the Respondent No. 2 have put in their appearance or have filed a reply though a notice of final disposal is served on them. It is not possible to believe that no post of assistant teacher has fallen vacant after the no objection certificate was issued to the petitioner by the Pune Zilla Parishad on 1.2.2011. The petitioner has secured knowledge on a query made under the provisions of the Right to Information Act that more than 470 posts of assistant teachers are vacant in the Pune Zilla Parishad. In this background, a direction needs to be issued to the Pune Zilla Parishad to immediately absorb the petitioner on the post of assistant teacher in one of the schools falling under the Pune Zilla Parishad.

6. Hence, for the reasons aforesaid, the Writ Petition is allowed. The respondent No. 1 - Pune Zilla Parishad is directed to absorb the petitioner in one of its schools, on the same terms and conditions on which the petitioner is presently working in the Ratnagiri Zilla Parishad, on or before 30.4.2015. As soon as the respondent No. 1 Pune Zilla Parishad informs the petitioner of her absorption in a specified school in the Pune Zilla Parishad, the respondent No. 2 - Ratnagiri Zilla Parishad should relieve the petitioner from the post on which she is working in the Ratnagiri Zilla Parishad.

7. Rule is made absolute in the aforesaid terms with no order as to costs.