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

**CONTEMPT PETITION NO. 573 OF 2018
IN
WRIT PETITION NO.839 OF 2017**

Ashok s/o Vithalrao Deshpande & anr ..PETITIONERS

VERSUS

Shri. Eknath Dawale & ors ..RESPONDENTS

Mr Santosh S. Jadhavar, Advocate for petitioners;
Mr S.P. Sonpawale, A.G.P. for respondent/State;
Mr R.J. Nirmal, Advocate for respondent No.4

**CORAM : PRASANNA B. VARALE
AND
ANIL S. KILOR, JJ.**

DATE : 8th NOVEMBER, 2019

ORAL ORDER:

By order dated 6th August, 2018 simple notice was issued to respondent Nos. 3 and 4 i.e. Mr. Patodkar, Deputy Commissioner, Establishment and Mr. Amol Yedge, Chief Executive Officer, Zilla Parishad, Beed. Appearance was caused on behalf of respondent No. 3 on 19th June, 2019 and time was prayed to file affidavit in reply. The affidavit in reply is filed on behalf of respondent No. 3 Mr. Purushottam Nanarao Patodkar only to the effect that Mr. Purushottam s/o Nanarao Patodkar was not rendering service on the post of Deputy Commissioner, Establishment either at the time of filing of the petition or at the time of filing of contempt petition and he was occupying

(2)

position as Deputy Commissioner, E.G.S. Divisional Commissioner Office, Aurangabad since 21st January, 2018.

2. Be that as it may. Mr. Sonpawale, learned A.G.P., on instructions, placed on record the communication dated 20th March, 2014 addressed to the Chief Executive Officer, Zilla Parishad, Beed through Deputy Secretary, State of Maharashtra informing that the State Government received proposal of the Zilla Parishad dated 16th November, 2013 in respect of absorption of the employees who were working as Mustering Assistants in the cadre of Civil Assistant Engineers. The communication then states that as Mr. Ubale and Mr. Ghatule acquired requisite qualification in the year 2008, proposal in respect of Mr. Ubale and Mr. Ghatul cannot be accepted. Resultantly, they cannot be absorbed. Thus, it was an attempt of learned A.G.P. that even prior to the order of this Court dated 15th March, 2018 in Writ Petition No. 839 of 2017, there was a decision on the proposal submitted by the Chief Executive Officer, Zilla Parishad, Beed.

3. Though initially on perusal of this document, we were inclined to dispose of the petition by permitting the petitioners to avail remedy to challenge the order dated 20th March, 2014, but Mr. Jadhavar, learned Counsel for the petitioners invited our attention to the certain facts. Now, we are proposing to issue directions to

(3)

respondent No.1 Secretary, Department of Planning, (Employment Guarantee Scheme) Mantralaya, Mumbai to file personal affidavit in reply in this Court within two weeks.

4. The facts emerge from the submissions of Mr. Jadhavar, learned Counsel for the petitioners and on perusal of the material are:

Present petitioners i.e. petitioner No.1 Ashok s/o Vithalrao Deshpande and petitioner No.2 Abhimanyu s/o Arjunrao Ubale filed Writ Petition No. 839 of 2017 seeking a direction to the respondents to absorb the petitioners as Assistant to Civil Engineers on Establishment of Zilla Parishad, Beed. Along with petition, the petitioners have placed on record proposal dated 16th November, 2013. This proposal was forwarded through the office of Chief Executive Officer, Zilla Parishad, Beed to Deputy Commissioner, Establishment, Divisional Commissioner, Aurangabad along with annexure.

5. Perusal of annexure shows that the list of employees for whom proposal is submitted and opinion expressed by Zilla Parishad, refers to six employees, namely, Ubale, Ghatul, Sayyad, Deshpande and Mulay and out of which, Ubale and Deshpande were the petitioners. Annexure refers to the positive opinion in favour of five employees, namely, Ubale, Ghatul, Sayyed, Deshpande and Mulay.

(4)

6. Interestingly enough, in the petition, respondent No.1 was Secretary, Department of Planning (Employment Guarantee Scheme), Mantralaya, Mumbai and on behalf of respondent Nos. 1 and 2 to the petition, an affidavit is filed through Mr. Mahendrakumar s/o Shrirangrao Kamble, working as Sub Divisional Officer, Majalgaon, District Beed. In the affidavit, there is only reference to the Government Resolutions dated 1st December, 1995 and 1st December, 2000 and reference to the fact that petitioner Nos. 1 and 2 are placed at Serial Nos. 425 and 488 in the seniority list respectively. It was specifically stated in the affidavit in reply that if the petitioners attain seniority into the due course of time in future, the posts of the Assistant to Civil Engineer will be provided to them on priority basis subject to vacancy of the posts and qualification of the petitioners.

7. The Division Bench with reference to this statement in paragraph-4 and with further reference that the proposal is forwarded to the Deputy Commissioner and in turn, Deputy Commissioner forwarded the proposal to the State Government and finding that the proposal is pending for decision for considerable long time, placed order directing respondent Nos. 1,2 and 3 to consider the case of the petitioners and dispose of the petition.

(5)

8. We surprised to see that when this affidavit in reply was filed on behalf of respondent Nos. 1 and 2 through Mr. Kamble, Sub Divisional Officer, Majalgaon on 5th April, 2017, there is no any word in the affidavit in reply referring to the communication dated 20th March, 2014 to the effect that there is some decision in respect of proposal dated 16th November, 2013 and interestingly, this communication refers to one of the petitioner A.A. Ubale turning down the proposal in his respect.

9. In view of these facts, it is our clear opinion that the officers of the respondent State are not taking even minimum care of placing the facts clear before the Court and replies are filed on behalf of respondent State through some officer in a casual manner whereby important material is not at all placed before this Court and then such material is dropped in the office of Government Pleader to support action of the State Government. This only leads to wasting of time of the Court, embarrassment of the law officers before this Court and further delay in decision.

10. We direct respondent No.1 Secretary, Department of Planning (Employment Guarantee Scheme), Mantralaya, Mumbai to file a detailed reply, on the aspect referred to above and affidavit in reply also must state that if replies are filed with casual approach, in

(6)

this Court, what action State proposes against such erring officers and stipulation of period within which action would be taken by the State against erring officers and not only initiation of action but taking action to its logical end.

11. Post the petition on 22nd November, 2019.

Authenticated copy of this order be supplied to learned
A.G.P.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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