

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NO. 6379 OF 2023****SUNITA LAHU PANCHPANDE****... APPELLANT****VS.****THE DISTRICT COLLECTOR & ORS.****... RESPONDENTS****J U D G M E N T****DIPANKAR DATTA, J.**

1. This appeal, by special leave, is at the instance of Sunita Lahu Panchpande¹. She takes exception to a judgment and order dated 7th August, 2017² of a Division Bench of the High Court of Judicature at Bombay³. The High Court allowed a writ petition⁴ presented by Gitanjali Sudhakar Shirsat⁵ and while granting relief to her, set aside the appointment of the appellant as an Anganwadi Supervisor in Nashik District, directed the State of Maharashtra to appoint the writ petitioner, the sixth respondent in this appeal, as an Anganwadi Supervisor in place of the appellant and observed that the appellant may be accommodated as an Anganwadi Sevika in Jalgaon district.

¹ appellant

² impugned judgment

³ High Court

⁴ Writ Petition No. 5740 of 2014

⁵ writ petitioner/sixth respondent

2. Facts giving rise to the writ petition of the sixth respondent are not too complicated. Appellant had been working as an Anganwadi Sevika in Jalgaon district since February 1992. An advertisement was published by Zilla Parishad, Nashik dated 18th April 2013⁶, calling for applications for various posts, including that of an Anganwadi Supervisor. The advertisement stipulated the qualifications the aspirants were required to possess. *Inter alia*, it was required that an applicant must have work experience of 10 (ten) years or more as an Anganwadi Sevika. One of the 8 (eight) important instructions forming part of the advertisement was to the effect that "*(O)nly Anganwadi Sevikes currently working in Tribal/Rural projects under Integrated Child Development Services Scheme in Nashik District can apply for the said post*". Appellant, though having never worked in any project in Nashik district but having work experience of more than 10 (ten) years in Jalgaon district applied for the said post, was selected and placed at No. 1 on the waiting list for appointment on one of the 3 (three) vacancies reserved for the OBC category, out of 13 vacancies in all. One, Lata Sanjay Kadam, was appointed on 29th July, 2013; however, sometime later, she was found not qualified/eligible for the post leading to cancellation of her appointment. Appellant ultimately came to be appointed on the vacancy created by cancellation of appointment of the said Lata Sanjay Kadam, on 4th March, 2014.

⁶ advertisement

3. The sixth respondent, who otherwise was fully qualified in terms of the advertisement, figured at the second position of the waiting list. Finding that the appellant had been appointed, though she was not eligible, the sixth respondent submitted a representation to the official respondents on 9th April, 2014 challenging the appointment of the appellant. Such representation was not considered. Aggrieved by the appointment of the appellant and consequent exclusion of her candidature, the sixth respondent successfully challenged the validity of the appointment of the appellant in the writ petition. The High Court recorded its satisfaction that having regard to the terms of the advertisement and a Government Resolution dated 17th November, 2001⁷, the appellant was ineligible due to her acquiring experience in a district other than Nashik district. Notwithstanding that the appellant had not withheld any information, the fault being clearly of the appointing authority, and that she had continued as Anganwadi Supervisor without any blemish for 3 (three) years, it was held that the appellant was ineligible and, therefore, had to make way for the next wait-listed candidate, i.e., the writ petitioner. The High Court's directions/observation, noted at the commencement of this judgment, have left the appellant seriously discontented.

4. Learned counsel appearing for the appellant contends that after the merit list and the waiting list had been prepared, the Zilla Parishad, Nashik had sought a clarification on 24th October, 2013 from the Divisional

⁷ Govt. Resolution No. ABVSY-2001/PK-146/K6

Commissioner, Nashik as to true construction of the said Government Resolution dated 17th November 2001⁸, more particularly whether it did stipulate, as a mandatory requirement, 10 (ten) years of work experience as an Anganwadi Sevika in the same district. This led the Divisional Commissioner, Nashik to issue a clarification *vide* letter dated 19th November 2013 that such a condition of eligibility could not be read in the 2001 G.R.; hence, appointments could be offered to those in the merit list, followed by the waiting list, in terms of the qualifications stipulated in the advertisement. It was after receiving such clarification that the Zilla Parishad offered appointment to the appellant considering her position at No.1 on the waiting list, after the appointment of Lata Sanjay Kadam was cancelled. Based on the above, the contention advanced is that the appointment of the appellant does not suffer from any illegality, far less patent illegality, for which the High Court would have been justified in allowing the writ petition of the sixth respondent more than 3 (three) years after the appellant had been rendering service as an Anganwadi Supervisor without any blemish.

5. The 2001 G.R. ordained that in order to be appointed as an Anganwadi Supervisor, an aspirant for such post must have worked as an Anganwadi Sevika in the same district for 10 (ten) years; however, if no vacant post in the project in which the Anganwadi Sevika is working is available, she shall be given appointment on a vacant post in nearby

⁸ 2001 G.R.

projects. It is pertinent to note that the 2001 G.R. restricted candidates figuring in the selection list of one district from being considered eligible for appointment on the same post in another district.

6. A clarification, in vernacular, was issued by the Divisional Commissioner in the light of the 2001 G.R. We have perused the translated version of the letter dated 19th November, 2013, more particularly paragraph 4 which is relevant. The same is reproduced hereunder:

4. Out of the 302 candidates present in the written examination 55 candidates passed examination hence the District Selection Committee under chairmanship of District Collector had conducted their interviews in which it was noticed that 6 candidates had experience of working in the post of Anganwadi worker outside Nashik District. Out of them the District Selection Committee has selected a candidate (Smt. Pachpande - OBC) at No.1 on the Waiting List . There is no clear mention in the Government Resolution No ABVSY-2001/ PK- 146/K-6 dated 17th November 2001 that the applicant should be an Anganwadi worker bearing 10 years of experience under Integrated Child Development Plan working within the same district.

7. The above clarification given by the Divisional Commissioner utterly fails to consider the contents of the 2001 G.R. in the proper perspective. A conjoint reading of clauses 3, 5 and 16-A of the 2001 G.R. reveals the express requirement of 10 (ten) years' work experience as an Anganwadi Sevika which had to be acquired in the same district. The Divisional Commissioner, Nashik, indeed, was in error in construing the 2001 G.R.

8. Not only that, we have no hesitation to hold that the Divisional Commissioner could not have issued any such clarification that runs wholly contrary to the contents of the 2001 G.R. If any clarification of the nature issued by him, at all, was required, the said commissioner ought to have

referred the disputed subject to the Government, in the appropriate department, for a clarification to be issued by it.

9. The Divisional Commissioner also failed to consider the instructions for the aspirants, which were part and parcel of the advertisement as well as the call letter dated 10th July 2013 issued to the appellant. It also required a certificate demonstrating 10 (ten) years' work experience as an Anganwadi Sevika in Nashik district. Significantly, the first of such 8 (eight) instructions quoted in paragraph 2 above, which is in line with the 2001 G.R., seals the fate of the appellant since she was not even qualified to apply for consideration of her candidature in the first place.

10. Even otherwise, the Zilla Parishad was equally remiss. It did not scrutinise the credentials of the appellant meticulously. Had there been a meticulous scrutiny, the appellant could not have crossed the threshold and enter the zone of consideration.

11. In fine, appointment of the appellant by the Zilla Parishad based on the erroneous clarification given by the Divisional Commissioner and contrary to the advertisement did not vest her with any right to continue on the post of Anganwadi Sevika in Nashik district.

12. We are, at this stage, reminded of this Court's decision in ***Distt. Collector & Chairman, Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi***⁹, where the Bench speaking through Hon'ble P.B. Sawant, J. had the occasion to observe as follows:

⁹ (1990) 3 SCC 655

6. It must further be realised by all concerned that when an advertisement mentions a particular qualification and an appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or even better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint persons with inferior qualifications in such circumstances unless it is clearly stated that the qualifications are relaxable. No court should be a party to the perpetuation of the fraudulent practice. We are afraid that the Tribunal lost sight of this fact.

13. Juxtaposed with the present case, the law laid down in the above text has full application here. Appointment of the appellant is not only in disregard of the terms of the advertisement; it does amount to a fraud on public by appointing an aspirant who is ineligible for the post. The only window through which the appellant's appointment could be saved is, if there was an indication in the advertisement of the appointing authority reserving its right to relax any essential requirement. No such relaxation is shown to us to be available in the present case; consequently, following the ratio of the decision in ***M. Tripura Sundari Devi*** (supra), it has to be held that the High Court was justified in interfering with the appointment of the appellant.

14. We, therefore, entertain no doubt that the impugned judgment of the Division Bench does not suffer from any infirmity or vulnerability so as to warrant interference in exercise of our appellate jurisdiction. In fact, the prudent and compassionate view of the Division Bench is reflected from the impugned judgment when it observed that the appellant may be accommodated in Jalgaon district.

15. The appeal is without merit. Accordingly, while upholding the impugned judgment, we dismiss the appeal. The sixth respondent shall be entitled to benefits flowing from the impugned judgment. If not already extended, the benefits thereunder be made available to her as early as possible but positively within 2 (two) months from date.

16. Appellant is given time till 30th September, 2026 to complete unfinished work, if any. Thereafter, she may not be continued on the post on which she has hitherto been discharging service.

17. Connected applications, if pending, shall stand disposed of.

.....J.
(DIPANKAR DATTA)

.....J.
(SHEEL NAGU)

**NEW DELHI;
SEPTEMBER 16, 2026.**