

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 681/2014 & 20/2015**

**DISTRICT : PUNE**

**1. ORIGINAL APPLICATION NO 681 OF 2014**

- 1) Shri Maroti Kerba Sirsat )  
Government Quarters, )  
A-5, 17 Queens Garden, )  
Pune 411 001. )
- 2) Shri Sandeep Daulatrao Mohite )  
A/6, Ganga Teerace Housing )  
Society, Pingale Vasti, )  
Mundhwa, Pune. )...**Applicants**

**Versus**

1. The Chief Secretary, )  
State of Maharashtra, )  
Mantralaya, Mumbai 400 032. )
2. The Secretary, )  
Women and Child Development )  
Department, State of Maharashtra, )  
Mantralaya, Mumbai 400 032. )

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3. The Commissioner, )  
Women & Child Development )  
Commissioner Officer, M.S, )  
Pune. )...**Respondents**

**2. ORIGINAL APPLICATION NO 20 OF 2015**

- Shri Umakant Panditrao Biradar, )  
C/o: Pavar, D.S Rajendra Nagar, )  
Nanded. )...**Applicant**

**Versus**

1. The Chief Secretary, )  
State of Maharashtra, )  
Mantralaya, Mumbai 400 032. )  
2. The Secretary, )  
Women and Child Development )  
Department, State of Maharashtra, )  
Mantralaya, Mumbai 400 032. )  
3. The Commissioner, )  
Women & Child Development )  
Commissioner Officer, M.S, )  
Pune. )...**Respondents**

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Mrs Punam Mahajan, learned advocate for the Applicants.

Mrs Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)  
Shri R.B. Malik (Member) (J)**

**DATE : 15.02.2016**

**PER : Shri Rajiv Agarwal (Vice-Chairman)**

**ORDER**

1. Heard Mrs Punam Mahajan, learned advocate for the Applicants and Mrs Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

2. These Original Applications were heard together and are being disposed of by a common order as the issues to be decided are identical.

3. Learned Counsel for the Applicants argued that the Applicants are working as Child Development Project Officers, Class-I and are eligible as per recruitment rules to be promoted as Deputy Commissioners. Learned Counsel for the Applicants argued that the Respondents have not taken any action.

*RAJ*

to fill 8 to 9 posts of Deputy Commissioners, which are vacant and for which additional charge is given to other officers. Learned Counsel for the Applicant stated that there are vacancies at the level of Joint Commissioner, also. If these posts of Joint Commissioner are filled, there will be further vacancies at the level of Deputy Commissioner. Learned Counsel for the Applicant stated that by G.R dated 10.1.2012, 6 posts of Deputy Commissioners, one in each revenue division, have been created. However, additional charge is given to some other officers by office order dated 7.3.2012. Also, for implementing a World Bank funded project for strengthening Integrated Child Development Service (ICDS) scheme and new scheme for Improved Nutrition, a G.R was issued on 13.2.2015. Two posts at the level either at Joint Commissioner or Deputy Commissioner have been created. However, these posts have also not been filled. Learned Counsel for the Applicants stated that during the pendency of this O.A, the Applicant no. 1 in O.A no 681/2014 has been promoted. However, there are many vacancies, where the other Applicants can be promoted.

4. Learned Presenting Officer (P.O) argued that the Applicants are seeking promotion to the next higher post of Deputy Commissioner. However, there is only one post vacant at the level of Deputy Commissioner, which will be filled in due course of time. Learned

Presenting Officer contended that though, offices at revenue division level have been established, however, no posts have been created. Officers working in other posts have been given additional charge to work as Deputy Commissioner. This is clear from G R dated 10.1.2012. Learned Presenting Officer stated that by G.R dated 13.2.2015 also, no posts have been created. Though, the Government of India has sanctioned schemes through World Bank funding, no new posts have been created and work has been entrusted to other officers at top level and the other work are to be filled by hiring of consultants. Learned Presenting Officer contended that the Applicants have not stated that they have been superseded or any person junior to them is promoted. The Applicants will have to wait for their turn for being promoted. The Applicants cannot seek creation of new post to accommodate them. Learned Presenting Officer stated that the Respondent no. 2 has taken up with the Finance Department to create some posts, but unless new posts are created or there are vacancies in the already sanctioned posts, the remaining Applicants (except the one already promoted) can be considered for promotion only for the one existing vacancy. Learned Presenting Officer argued that there is no merit in the O.As and they may be dismissed.

5. We find that the Applicants have claimed that the Respondents have not held the meeting of the

Departmental Promotion Committee (D.P.C) since 2009. However, during the pendency of these O.As, two persons, including the Applicant no. 1 in O.A no 681/2014 has been promoted as Deputy Commissioner by order dated 2.6.2015. The claim of the Respondents is that there are eight sanctioned posts of Deputy Commissioner, in the office of the Commissioner, Women & Child Development, Maharashtra State, Pune. Seven posts are filled and there is one vacancy. Five posts of Deputy Commissioners were sanctioned for the Commissionerate of Women and Child Development, Pune, while three posts were sanctioned for Commissionerate of Integrated Child Development Scheme, Navi Mumbai. Details of the sanctioned posts and officers, who are working are given in para nos 3 & 4 in the additional affidavit in reply dated 20.1.2016. It is explained by the Respondents that though, the Department of Women and Child Development has decided to establish offices in each Revenue Division by G.R dated 10.1.2016, this G.R itself makes it clear that no separate staff for the same was being sanctioned. In fact, the staff was to be taken from other offices. Appendix 'A' to this G.R (p. 141 of the Paper Book) has heading in Marathi-प्रस्तावित विभागीय कार्यालय, which itself makes it clear that there was no sanction to create any new posts for these divisional offices. Charge of the posts of Divisional Deputy Commissioners have been given to officers who are working as Deputy Commissioners in

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eight sanctioned posts, seven of which are filled at present. Appendix-2 to G.R dated 5.3.2003, which has sanctioned revised staffing pattern for the posts under the women and Child Development Department, also shows that there are 8 sanctioned posts of Deputy Commissioner in the Commissionerate of Women and Child Development, which includes posts in the Commissionerate of Integrated Child Development Service Scheme. By G.R dated 13.2.2015, a total of 690 posts for the World Bank aided projects for strengthening of I.C.D.S Scheme and new Nutrition Improvement Project have been envisaged. It has been decided that three posts will be adjusted from the existing posts in the Department and remaining 687 posts will be filled by hiring of consultants. The G.R states:-

“ शासन निर्णय:- केन्द्र शासनाने जागतिक बँकेच्या सहाय्याने मंजूर केलेली एकात्मिक बाल विकास सेवा योजनेचे बळकटीकरण व घोषण सुधारणा प्रकल्प या नवीन योजनेकरिता खालील प्रमाणे विभागांतर्गत कार्यरत असलेल्या ३ पदामधून तसेच ६८७ पदांचे सेवा कराव तत्वावर (Hiring of consultants) घेण्यासाठी खालील अटीच्या अधिन राहून शासनाची मान्यता देण्यात येत आहे.”

From this, it is clear that two posts of Joint / Deputy Commissioners for these projects will be transferred from already sanctioned posts. In other words, no new posts of Joint/Deputy Commissioners have actually been sanctioned and the work of these projects will be done by the officers, who are already there. This may necessitate

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giving additional charge of some of the offices. From the material available on record, it is quite clear that there are only 8 sanctioned posts of Deputy Commissioners, out of which 7 are already filled, and one post is vacant.

6. Learned Counsel for the Applicant has cited judgment of Hon. Bombay High Court in Criminal Writ Petition no. 584 of 2013 dated 1.8.2013. It is stated that the Hon'ble High Court has directed creation of posts at Regional / Divisional level permanently. Para 9 of the judgment reads:

“9. Considering the vital significance of the object behind enacting the Juvenile Justice (Care and Protection of Children) Act, 2000 we direct the State Government to consider creating a post at Regional / Divisional level permanently.”

As the directions have been issued by Hon. High Court, we are sure that the State Government will take appropriate decision and there is no need to issue any direction by this Tribunal. In any case, this Tribunal will be bound by jurisdictional limitations and is unable to give any directions to the State Government to create any posts.

7. The Respondents have stated in para 7 of the additional affidavit in reply dated 20.1.2016 that:-



“7. I say that at present there is only one post vacant due to the promotion of Mr Shinde. The Applicant no. 2 is at Serial no. 3 in the open category in the common seniority list (As on 1.1.2014) dated 27.1.2015. I respectfully submit that the post of Deputy Commissioner has become vacant due to the promotion of Mr Shinde, the process of promotion shall be considered by the Departmental Promotion Committee by taking into consideration seniority position shown in the Common Seniority list and as per the roster.”

8. The Respondents have undertaken to fill the vacant post as indicated above. No further relief can be granted to the Applicants. The Original Applications are disposed of accordingly with no order as to costs.

Sd/-  
**(R.B. Malik)**  
**Member (J)**

Sd/-  
**(Rajiv Agarwal )**  
**Vice-Chairman**

**Place : Mumbai**  
**Date : 16.02.2016**  
**Dictation taken by : A.K. Nair.**