

**IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO.326/2024**

1. JAN-UTKARSH-SHIKSHAN SAUNSTHA registered society at Curchorem Goa, Registered under serial No.32/78 Under Societies Act 1860 Represented herein by the Chairman, Ashok K. Naik, resident of Pontemol, Kurchorem, Goa.

2. THE SCHOOL MANAGING COMMITTEE, Smt. Chandrabhaga Tukoba High School Curchorem, Quepem-Goa.

3. THE SCHOOL MANAGING COMMITTEE, Smt. Chandrabhaga Tukoba Higher Secondary School Curchorem, Quepem-Goa.

... PETITIONERS

Versus

1. STATE OF GOA, Through the Chief Secretary Porvorim-Goa

2. THE DIRECTOR, Directorate of Education, Porvorim-Goa.

3. MR. SATYEN NAIK, Lower Division Clerk, Smt. Chandrabhaga Tukoba Naik Higher Secondary School, Curchorem, Quepem Goa.

4. MRS. BEENA BICCU NAIK DESSAI, Teacher Grade-I, Smt. Chandrabhaga Tukoba Naik Higher Secondary School, Curchorem, Quepem Goa.

5. SMT. SUKSHMA KAKODKAR, Teacher Grade-I, Smt. Chandrabhaga Tukoba Naik Secondary School, Curchorem, Quepem Goa.

6. MR. VICTOR DANIEL, MTS/Lab Attendant, Smt. Chandrabhaga Tukoba Naik Higher Secondary School, Curchorem, Quepem Goa.

7. MISS. VIDYA VASANT NAIK, Teacher Grade- I, Smt. Chandrabhaga Tukoba Naik Higher Secondary School, Curchorem, Quepem Goa.

8. MRS. KANCHAN DHAIFODE, Trained Under- Graduate Teacher, Smt. Chandrabhaga Tukoba Naik Secondary School Curchorem, Quepem Goa.

9. MR. HANUMANT VAST, Resident of Pontemol, Curchorem, Goa.

... RESPONDENTS

Mr Chaitanya Padgaonkar with Ms V. Mahato, Advocates for the Petitioners.

Mr Shubham Priolkar, Additional Government Advocate for the State.

**CORAM: M. S. SONAK &
VALMIKI MENEZES, JJ.**

Reserved on: 8th APRIL 2024

Pronounced on: 10th APRIL 2024

ORDER: (Per M. S. Sonak, J.)

1. Heard Mr Chaitanya Padgaonkar with Ms V. Mahato for the Petitioners and Mr Shubham Priolkar, learned Additional Government Advocate for the State.

2. The petitioners who are presently managing Smt. Chandrabhaga Tukoba Naik Secondary School (said school), question the approvals the Director of Education granted to the appointments of respondents no.3 to 8 in 2019-2020.

3. The record shows that there were disputes between the members of the managing committee of the Jan Utkarsh Shikshan Sanunstha and the

said school *inter se*. At the time, respondents, no.3 to 8, were appointed, and the Director of Education granted approvals for their appointments to various posts in the said school; one, Mr Hanumant Vast, was the Chairman of the managing committee. After Mr Hanumant Vast, the present managing committee members took charge.

4. The petitioners represented to the Director of Education that there were some illegalities in the appointments of respondents no.3 to 8 and, upon such representation/complaints being rejected, have instituted the present petition. In effect, this petition has been instituted almost four to five years after the Director of Education approved the appointments of respondents no.3 to 8.

5. Apart from the delay, it is apparent that the petitioners' real grouse is against Mr Hanumant Vast (ninth respondent) and the appointments made during the ninth respondent's tenure. This appears to be a dispute between the two regimes, and the private respondents are sought to be targeted to settle scores with the previous regime. The petitioners have combined different causes of action, and the petition suffers from multifariousness.

6. Insofar as the third respondent, who was appointed as Lower Division Clerk (LDC), is concerned, the petitioners' grievance is that though the Goa School Education Rules, 1986 do not prescribe any qualifications for the post of LDC, the minimum qualifications prescribed by the Government for the post of LDC in Government run higher secondary schools is a Higher Secondary School Certificate, computer literacy and knowledge of Konkani. The petitioners contend that in the advertisement issued on 15.07.2019, the qualifications prescribed were that of B.Com. with competency in MS Word and Tally. The petitioners have

also raised some doubts about the third respondent belonging to the Other Backward Class (OBC). Further, the petitioners have alleged that the third respondent was a relative of the ninth respondent.

7. Thus, the petitioners themselves contend that the Goa School Education Rules had not prescribed any qualifications for the post of LDC. Without any elaboration, the petitioners suggest that the Government Rules for the post of LDC should have been adopted to fill the post. The petitioners point out that the minimum qualifications prescribed by the Government for LDCs in Government-run schools were a Higher Secondary School Certificate, computer literacy and knowledge of Konkani. Here, admittedly, the advertisement provided a graduation qualification (B.Com.) and computer literacy, i.e. MS Word and Tally. The qualifications prescribed were, therefore, more than the minimum prescribed for LDCs in the Government schools, assuming that such qualifications apply to private-aided schools.

8. The statement that the third respondent was a relative of the ninth respondent is too vague a statement to be acted upon at this point in time. The selection committee, inter alia, comprised representative of the Directorate of Education. Finally, the Director of Education has approved the selection committee's recommendations. Therefore, based upon the grounds urged, no case is made out to interfere with the appointment or approval of appointment of the third respondent at this point in time.

9. The petitioners raised doubts about whether the third respondent belongs to the OBC category. No pleadings suggest the reasons for such belief or the reasons for such doubt. By simply expressing doubts, the appointments made and approved by the Director cannot be interfered with at this point in time. For all these years, the petitioners or its members

have taken no steps to cancel this respondent's caste certificate. Therefore, for the present, and based on the vague pleadings in the petition, no case is made out warranting interference with the third respondent's appointment at the behest of the petitioners.

10. Regarding the appointment of the fourth respondent to the post of Teacher Grade-I, the petitioners have pointed out that by advertisement dated 03.04.2018, two posts were advertised. Of the two posts, one was reserved for the OBC category and the other for the candidates with physical disabilities (PWDs). The petitioners admit that after conducting a skill test, the fourth respondent was appointed as Teacher Grade-I in Physics on 04.06.2018 against the post of PWDs because no PWDs had applied.

11. Though there is no clarity in the pleadings, it appears this appointment was up to the end of the academic year. On 04.07.2019, a fresh NOC was sought and obtained to dereserve this post. Based on this NOC, an advertisement was issued on 15.07.2019 to fill the said post as an un-reserved one. The selection committee recommended the fourth respondent, and based on such recommendations, the fourth respondent was appointed as Teacher Grade-I in Physics in December 2019. The Director of Education vide communication dated 28.07.2020 approved this appointment.

12. The petitioners contend that there was some flaw in the de-reservation process. There is no allegation about the fourth respondent not being qualified to be appointed as a Teacher Grade-I in Physics. The selection committee recommended the appointment of the fourth respondent. One of the selection committee members was a representative

of the Directorate of Education. Finally, the Director of Education approved the appointment.

13. To now allege that there was some infirmity in the NOC issued by the Director for filling up this post as an unreserved post cannot be grounds to set aside the fourth respondent's appointment at this point in time. The said NOC is also not challenged in the petition. This is not a case where some candidate with physical disability has questioned the de-reservation process or the NOC granted by the Director of Education in 2019. Based on such contentions, no case is made to interfere with the appointment of the fourth respondent at the behest of the present petitioners.

14. The fifth respondent was appointed as a Teacher Grade-I in Accountancy in July 2020. The advertisement was in accordance with the rules, but the petitioners belatedly allege that the fifth respondent's M.Com. was not in Accountancy, and that out of the eight subjects, only one of the subjects was in Accountancy. The petitioners also allege that one Vipul Sawant was more meritorious than the fifth respondent. On this basis, the petitioners allege that the selection committee erred in recommending fifth respondent for appointment and the Director of Education erred in approving the fifth respondent's appointment as Teacher Grade-I in Accountancy.

15. Apart from the belated challenge, there is hardly any material to hold that the fifth respondent was not qualified to be appointed Teacher Grade-I in Accountancy. The selection committee, which comprised a representative of the Directorate of Education, recommended the fifth respondent. The managing committee accepted this recommendation, and the fifth respondent was duly appointed in 2020. The Director of

Education, upon scrutinising the material, approved the appointment of the fifth respondent.

16. Mr Vipul Sawant never challenged the fifth respondent's appointment. The petitioners are, therefore, not the proper relators to question the appointment of the fifth respondent at this belated stage based upon grounds that are not even properly elaborated in the petition. Accordingly, no case is made out to interfere with the appointment of the fifth respondent based upon the sketchy averments in the petition and without pointing out any serious infirmity in the appointment and approval.

17. The sixth respondent was appointed to the Multi-Tasking Staff (Lab Attendant) post pursuant to an advertisement dated 15.07.2019. This post was reserved for PWDs. The selection committee recommended the sixth respondent for appointment to this post, and the sixth respondent was appointed accordingly by the managing committee. The Director of Education approved the appointment.

18. The petitioners now allege that as per the roster points the school should have maintained, this post should have been an un-reserved post. Again, though reference is made to some circulars of the Directorate of Social Welfare, there is no elaboration on whether or how these circulars apply to the recruitment in the said school. In any case, the only allegation is that this MTS (Lab Attendant) post should have been an un-reserved post, but the same was reserved for PWDs.

19. Significantly, none of the candidates belonging to the un-reserved category ever challenged the advertisement or the reservation. Upon assuming control of the managing committee, the petitioners cannot raise such challenges when there is no dispute about the educational or other

qualifications possessed by the sixth respondent. Based upon some complicated interpretation of the circulars and without specifying how such circulars are applicable, the petitioners cannot belatedly challenge the appointment of a Lab Attendant made almost five years ago against the post reserved for persons with disabilities.

20. The seventh respondent was appointed Teacher Grade-I in Marathi against the post reserved for the OBC category. The petitioners contended that this post should have been reserved for the ST category. The petitioners rely upon certain circulars and rosters without elaborating on how these circulars and rosters apply to recruitment in the said school. Besides, this is not a case where any of the ST members have challenged the seventh respondent's appointment as Teacher Grade-I in Marathi on the ground that this post should have been reserved in the ST category.

21. The petitioners cannot belatedly raise such challenges when there is no dispute about the seventh respondent belonging to the OBC category for which the post was advertised and possessing the requisite qualifications. There are some vague and unsubstantiated allegations about the ninth respondent issuing a backdated appointment order to the seventh respondent. Pertinently, even the Director of Education has approved the seventh respondent's appointment based on the recommendations of the duly constituted selection committee, of which one of the nominees of the Director was a member.

22. The eighth respondent was appointed as a trained undergraduate teacher in Marathi and Hindi against the OBC category. Again, the petitioners contend that this post should have been unreserved based upon some complicated interpretation about rosters and without specifying or elaborating on how such rosters apply. Based on this ground, the eighth

respondent's appointment as a Trained Undergraduate Teacher is sought to be challenged belatedly.

23. This is not a case where some unreserved category candidate challenged the advertisement or reservation of this post for the OBC category. There is no allegation about the eighth respondent not being in the OBC category or not fulfilling the requisite qualifications as prescribed. Therefore, based on a belated challenge on a ground which has not even been substantiated, no case has been made to interfere with the appointment of the eighth respondent at this point in time.

24. From the entire tenor of the petition, it is apparent that no substantive or substantial grounds have been raised to challenge the appointments of respondents no.3 to 8 made in 2019-2020. The petitioners have not even made any case to establish that they are the proper relators in the context of the grounds urged. Most of the grounds relate to the roster points. Wherever appointments are made to unreserved posts, the petitioners contend that the posts belong to the reserved category. Conversely, wherever appointments are made to reserved posts, the petitioners contend that these posts should have been in the unreserved category. No reserved or unreserved candidates have ever challenged the reservation or de reservation process. The pleadings are sketchy.

25. The entire focus of this petition is on ousting the appointees during the tenure of the ninth respondent who was the former Chairman of the managing committee of the said school. This appears to be a conflict between the previous and present regimes. The petitioners wish to settle scores by questioning the appointments of respondents no.3 to 8 at a belated stage when such appointments were in pursuance to a regularly constituted selection committee in which a nominee of the Directorate of

Education was one of the members. The Director of Education has duly approved such appointments. The petitioners have failed to demonstrate a breach of any statutory rules. The petitioners have not made out a case suggesting that the appointees do not possess any of the qualifications as prescribed. Upon cumulative consideration of all these factors, no case is made to entertain the present petition and interfere with the appointments of respondents 3 to 8 at this belated stage.

26. For all the above reasons, we dismiss this petition. Since no notices were issued to respondents no.3 to 9, we refrain from awarding any costs in this matter.

VALMIKI MENEZES, J.

M. S. SONAK, J.

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