

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR**

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 5503 OF 2024

- | | | |
|---|---|-------------------------------|
| 1) Smt. Pratibha Ganpati Babar |] | |
| Age 36, Occupation service |] | |
| Residing at Bahadurwadi |] | |
| Tal:- Walwa District Sangli |] | |
| 2) The Atpadi Education Society |] | |
| Tal:- Walwa District Sangli |] | |
| Through its President/Secretary. |] | |
| 3) Bahadurwadi Vidyalaya and Shri Bhau |] | |
| Nana Kurane Jounier College, |] | |
| Bahadurwadi Tal:- Walwa District Sangli |] | |
| Through its Head Master |] | |
| | | <u>...Petitioners.</u> |

Versus

- | | | |
|--|---|-------------------------------|
| 1) State of Maharashtra |] | |
| Through Department of Education |] | |
| Having office at Mantralaya, Mumbai 400 |] | |
| 032 |] | |
| 2) Education Officer (Secondary) Zilla |] | |
| Parishad, Sangli. |] | |
| 3) Deputy Director of Education Kolhapur |] | |
| Division, Kolhapur |] | |
| | | <u>...Respondents.</u> |

*Mr. Chetan Patil a/w Mr. Prathamesh Magadum a/w Ms. Siddheshwari
Chvan i/by Mr. Mandar G. Bagkar for Petitioners.
Mr. V. M. Mali, A.G.P., for Respondent Nos. 1 & 2 State.*

Coram : **M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : **November 18, 2025.**

JUDGMENT (PER : AJIT B. KADETHANKAR, J.)

(1) Heard Mr. Chetan Patil, learned Counsel for the Petitioners and Mr. Mali, learned Asst.Govt.Pleader for the Respondent Nos. 1 and 2 State. At the instance of the parties, the Petition is being finally disposed at admission stage considering the nature of Subject-matter.

(2) SUBJECT MATTER:

. The Petitioner seeks directions to the Respondent No. 2 to decide the proposal for approval to the Petitioner No. 1's services. In view of the limited relief prayed by the Petitioners, we deem it appropriate to dispose of the Writ Petition at admission stage.

(3) FACTS IN BRIEF:

(3.1) The Petition is filed by the Petitioner No. 1-Assistant Teacher, Petitioner No. 2-the Educational Institute/Society and Petitioner No. 3-the School in which the Petitioner No. 1 is serving.

(3.2) Petitioners submit that due to the transfer of one Assistant Teacher in the Respondent No. 3-School, a vacancy arose in Petitioner No. 3-School in the year 2020.

(3.3) Its the contention of the Petitioners that pursuant to creation of the vacancy, the Petitioner No. 2 appointed the Petitioner No. 1 as "Shikshan Sevak" w.e.f. 22nd November 2020 at Petitioner No. 3-School.

The Petitioners submit that the appointment was made by due process.

(3.4) The Petitioners would further submit that pursuant to the appointment a proposal was filed by the Petitioner No. 2-Management to the Respondent No. 2 seeking approval to Petitioner No. 1's appointment.

(3.5) However, Respondent No. 2 by its order dated 6th August 2021, the Respondent No. 2 returned the said proposal by contending that it ought to have been filed in the Camp organized by the Respondent No. 2.

(3.6) As against the rejection of proposal, the Petitioner filed Writ Petition No. 1763 of 2022 in this Court. This Court vide its order dated 5th May 2022 set aside the rejection order dated 6th August 2021 and directed the Petitioners to submit a fresh proposal to the Education Officer (Secondary). The Education Officer (Secondary) was directed to decide the proposal within a period of four weeks from the date of receipt of such proposal.

(3.7) It is further submitted by the Petitioners that after curing the deficiencies mentioned in the order dated 6th August 2021 passed by the Respondent No. 2, the Petitioners re-submitted proposal to the Respondent No. 2 seeking approval to Petitioner No. 1's services on 8th July 2022 .

(3.8) It is submitted that again the Respondent No. 2 vide its order dated 10th September 2022 rejected the proposal filed by the Petitioners.

(3.9) It is further submitted that on 17th August 2023 the Petitioners again submitted the fresh proposal i.e. at 3rd time, to the Respondent No. 2 seeking approval to the Petitioner No. 1's service. The Petitioners contend that they were under bonafide impression to submit fresh proposal by explaining the queries mentioned in the order dated 17th August 2023. However it is submitted that the Respondent No. 2 informed the Petitioners that since the proposal was already rejected on 10th September 2022, the third proposal cannot be entertained as such. Hence the Petitioners have filed present writ petition.

(4) Petitioner's Argument:-

(4.1) Mr. Patil, learned Counsel for the Petitioner would submit that the rejection dated 10th September 2022 has shown at least 11 deficiencies in the proposal. He would further submit that the Petitioners have already removed all the deficiencies which were demonstrated vide earlier rejection order. He would further submit that had Respondent No. 2 given any opportunity of hearing to the Petitioners, they could have legitimately justified the proposal and also could have removed the deficiencies, if any.

(4.2) Mr. Patil, learned Counsel would further submit that the most of the deficiencies in rejection letter are technical. He would submit that it is not the case that the Petitioners have violated any rules, regulations or the process laid down by the Government.

(4.3) Mr. Patil, would further submit that so far as some objections raised referring to certain Government Resolutions are concerned, e.g. violation of Clause No. 1.4 in the Government Resolution dated 4th May 2020 and/or such govt. resolutions, the Petitioners are in well position to explain Respondent No. 2 that there is not such violation at the hands of the Petitioners.

(4.4) To conclude, Mr. Patil, learned Counsel for the Petitioners would further submit if the Respondent No. 2 is directed to give an opportunity to the Petitioners to justify the proposal as also to cure the deficiencies, the purpose of the the Writ Petition would be served. He would submit that no prejudice shall cause to any party, if the Respondent No. 2 is directed to give hearing to the Petitioners and to decide the proposal afresh in the light of the justification and explanation that the Petitioners would offer to the satisfaction of Respondent No. 2.

(5) Respondent's argument: -

(5.1) Mr. V. M. Mali, learned Asst. Govt. Pleader would submit that the Petitioners are making repeated exercise of submitting the same proposal instead of curing the deficiencies as are required by the Respondent No. 2. Ld. Asst. Govt. Pleader would further submit that for the lapse of the Petitioners to cure the deficiencies well within time, the Respondent No. 2 cannot be blamed. As such Mr. Mali would pray for dismissal of the Writ Petition.

(6) CONSIDERATIONS AND OBSERVATIONS:

(6.1) We find that the proposal for approval is filed by the Employee as also by the Educational Institution. The annexures to the Writ Petition would *prima facie* show that the the Petitioners may justify and explain the queries made by the Respondent No. 2 in the order dated 10th September, 2022, if an opportunity of hearing is given to them.

(6.2) Besides, if the Respondent No. 2 is directed to give a hearing to the Petitioners and then decide the proposal on its merit, no prejudice will be caused to anybody. We see that the Respondent No. 2 has passed a formatted order without giving much details of the objections.

(6.3) We are of the considered view that the Petitioners should get an opportunity to clarify the queries raised by the Respondent No. 2 and the remove the deficiencies in the proposal. This is only because the Petitioners have contended that they didn't get proper opportunity of hearing.

(7) In view of this, we pass following order :-

::ORDER::

- A)** Writ Petition is partly allowed;
- B)** The Petitioner shall re-submit the proposal dated 17th August 2023 seeking approval to the service of Petitioner No. 1 to the Respondent No. 2 within a period of two weeks from today.
- C)** The Respondent No. 2 shall consider such proposal on its own merits by giving an opportunity of hearing to the Petitioners. The Respondent No. 2 shall pass such order on its own merits within a period of 16 weeks from receipt of such proposal.
- D)** The Petitioners are at liberty to add such documents and record which would be necessary to substantiate the claim of approval.

E) We make it clear that, we have not commented on the merit of the proposal for approval to the services of Petitioner No. 1, and that the Respondent No. 2 shall adjudicate the proposal in the light of the govt. policy and applicability of the judgments/precedents on which the Petitioners would rely.

F) Needless to mention, if the Respondent No. 2 grants approval to the services of Petitioner No. 1, Shalarth ID be processed accordingly.

(8) Writ Petition stands disposed of in the above terms.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

Digitally
signed by
TALLE
SHUBHAM
ASHOKRAO
Date:
2025.11.18
15:30:29
+0530