

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4912/2015

(MINAL YOGESH TIWARI (MINA NANDLAL SHARMA) **VERSUS** THE STATE OF MAHARASHTRA
 & OTHERS)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri A.R. Deshpande, counsel for the petitioner.
 Ms N.P. Mehta, A.G.P. for the R-1 to 3.

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : AUGUST 25, 2015.

By this petition, the petitioner challenges the order of the respondent no.3 dated 31.08.2010 rejecting the proposal of the petitioner for appointment on the post of Assistant Teacher.

According to the petitioner, the petitioner was appointed on the post of Assistant Teacher in June-2008. It is the case of the petitioner that though the proposal of the petitioner was sent to the Education Officer for grant of approval, the Education Officer did not decide the same. It is stated that the petitioner had filed Writ Petition No.5809 of 2014 and after the reply was filed by the Education Officer, the petitioner became aware that the proposal of the petitioner was rejected by an order dated 31.08.2010. The petitioner has filed the instant petition challenging the order dated 31.08.2010.

It would not be proper in the circumstances of the case to quash and set aside the impugned order rejecting the proposal of the petitioner. There were several discrepancies in the proposal sent by the management to the Education Officer and the proposal was rejected by the impugned order dated 31.08.2010. It appears from the impugned order that the management had not complied with more than a dozen conditions while remitting the proposal of the petitioner to the Education Officer for grant of approval. The

reasons recorded by the Education Officer at Clauses 17, 18 and 19 for rejecting the proposal of the impugned order appear to be just and proper. It is also necessary to note that after the rejection of the proposal in the year 2010, the management had advertised the post of Assistant Teacher by issuing the advertisement on 07.07.2013 and 06.09.2013. The petitioner has admitted in the writ petition that all the posts of Assistant Teachers have been filled by the management by issuance of an advertisement and following the selection procedure. It is, in fact, averred in paragraph 12 of the writ petition that the fact remains that at present, no vacant post is available in the respondent no.5-School as the persons appointed in pursuance of the two aforesaid advertisements have been granted approval. If that be the case, there is no reason to direct the respondents to reconsider the proposal of the petitioner and grant the approval to the appointment of the petitioner on the post of Assistant Teacher. We find, on the basis of the averments, that though it was informed on behalf of the petitioner to this Court at time of hearing of the earlier writ petition that the petitioner became aware about the rejection of the proposal only at the time of hearing of the matter, the said statement does not appear to be correct as if that was the case, the petitioner would have approached this Court immediately after the advertisement was issued for making appointments of Assistant Teachers, in the year 2013. Even the previous petition was filed in the year 2014 when the appointments were made in the year 2013 and all the posts of Assistant Teachers were filled.

In the aforesaid set of facts, we dismiss the writ petition. No costs.

JUDGE

JUDGE