

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6094 of 2018

Ms.Talgulkar Puam Siddappa
and others .. Petitioners
Versus
Kolhapur Zilla Parishad and ors .. Respondents

...

Mr.N.V. Bandiwadekar i/b Ms.Ashwini N. Bandiwadekar for the
petitioners.
Mr.B.V. Samant, AGP for the State.
Mr.Ramesh Rane for respondent nos.1 and 2.

**CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 6th JULY 2018

P.C:-

1 The Deputy Director of Education, Kolhapur Region,
Kolhapur has filed his affidavit in reply pursuant to our order
and direction of 8th June 2018.

2 After setting out the factual background, all that
this gentleman feels is that if a proper proposal had been

Tilak

forwarded for seeking approval to the petitioners' appointments and after verifying as to what is the requirement that the authorities have to comply with, this difficulty which the petitioners are facing would not have arisen.

3 Pertinently, in this affidavit in para no.2 (r), (s), (t), (u) (v), the Deputy Director says as under :-

- (r) After 06.05.2017, the powers of approval in respect of unaided schools were with the office of the Deputy Director of Education, Kolhapur.
- (s) Thereafter the office of the Deputy Director of Education, Kolhapur received a proposal dated 06.01.2018 from the Education Officer (Primary) ZP Kolhapur for approval to the appointment of the Petitioners. Copy of the proposal dated 06.01.2018 is annexed hereto and marked as **Exhibit-7**.
- (t) The CEO Kolhapur ZP by letter dated 22.05.2018 regularized the services of the petitioners for the period from 22.11.2017 to 30.04.2018 by approving extension for protecting the interest of the students.
- (u) Thereafter the CEO Kolhapur ZP by letter dated 22.05.2018 terminated the services of the Petitioner as there was no approval from the office of the Deputy Director of Education, Kolhapur.

- (v) The Office of the Deputy Director of Education, Kolhapur by Order dated 31.05.2018 rejected the proposal in respect of the Petitioners son the following grounds:
- (i) Not having No objection certificate.
 - (ii) Not having the roster certified by Backward Cell, Pune.

Copy of the order dated 31.05.2018 is annexed hereto and marked as Exhibit-8.

4 After perusing this affidavit with the assistance of Mr.Samant, learned AGP, we find that the Deputy Director is aware of the issue, namely, that the appointment of petitioners as Assistant Teachers in the respondent no.2 school was not approved by the respondent no.3 despite the petitioners being eligible for the same. The only two grounds on which the proposal for approval was not allowed or granted is that the advertisement in respect of the appointment of the petitioners was without approval from the requisite authority. Secondly, that the policy of maintaining roster and ensuring strict compliance regarding filling up of reserved seats was not followed. The concerned roster was not approved by the competent officer.

5 In the facts and circumstances and very peculiar to this case, we have noted that it is not any usurper in the office or a complete outsider to whom files were forwarded or through whom they were routed. The affidavit in reply itself indicates that the Dy. Director of Education, Kolhapur Region, Kolhapur was in the know of every single detail. His files indicate that it is not a fly-by-night operator, but a regular school and functioning for quite sometime. It is a Secondary school as well as a Higher Secondary and Junior College at Gadhinglaj, but its Junior college is unaided. We do not see how there is any burden, much less financial on the Government, in such circumstances, all that was required was that the appointments are approved and that approval would guarantee a tenure to the petitioner and their services would obtain some continuity. In these state of affairs, we do not see how the petitioners can be faulted and particularly when Mr.Bandiwadekar has invited our attention to the copy of the Advertisement which has been annexed to the petition at page 16. We have also found from the copy of the order at page 21

appointing the petitioners that this whole process was in accordance with the Government policies. They are all specifically referred in this order. The conditional appointment was subject to the approval being granted and we also find that the roster which was prepared has been signed by the District Social Welfare Officer, Kolhapur and Education Officer (Primary) Zilla Parishad, Kolhapur.

6 In the circumstances, we do not see how the objections which we have noted above survive. In the peculiar facts and circumstances of this case, we direct that the petitioners' services be treated as approved from the date of appointment in terms of the order, copy of which is at Exhibit-D page 21. The services shall be taken as rendered continuously and for the purposes of other benefits. Needless to clarify that these services shall be reckoned as rendered to an unaided section of the second respondent.

7 Writ Petition is allowed in these terms.

(SMT. BHARATI H. DANGRE, J.) (S.C. DHARMADHIKARI, J.)