

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1763 OF 2019

**SUNIL SAMBHU PATIL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.Joslyn A. Menezes, Advocate for the petitioners.
Mr.R.P.Gaur, AGP for respondent/State.

**CORAM : PRASANNA B.VARALE &
S.M.GAVHANE, JJ.**

DATED : 22.02.2019

P.C. :-

1. Learned Counsel at the outset submits that the grievance of the petitioner is of non-decision by respondent No.3-Education Officer (Secondary), Zilla Parishad, Nandurbar on the proposal dated 20.04.2017. But, inadvertently, the prayer clause (A) is not happily worded. As such, oral prayer for amending the petition by incorporating/adding prayer clause (B) to the effect seeking directions to respondent No.3 to decide the proposal received by him on 20.04.2017 expeditiously. Considering the material placed on record, we allow the oral prayer made by the Counsel. Necessary amendment to be carried out forthwith.

2. On perusal of the documents, we are of the view that the petition can be disposed of at the admission stage with directions. Perusal of the documents placed on record shows that a petition was filed by father of the petitioner Shri Shambhu Sadashiv Patil before this Court bearing No. Writ Petition No.3780 of 1997. By a detailed order, learned Single Judge of this Court allowed the petition partly. Learned Single Judge observed that the learned School Tribunal dismissed the appeal preferred by the petitioner, purely on technical ground and it would be travesty of justice to remit the matter back to School Tribunal, considering the age of the petitioner i.e. 80 years. Learned Single Judge while allowing the petition directed respondent No.2 – Management to decide the proposal of the petitioner by notionally granting him the promotion from 1986 post retirement of Shri R.V. Patil and refer the proposal to the respondent Nos.3 and 4 for granting approval to the same. It is further observed by learned Single Judge that based on notional promotion, the petitioner would be entitled to monetary benefits as prescribed by law. Learned Single Judge then prescribed the time schedule for the respondents to take necessary steps. Learned Counsel who was appearing for the petitioner made statement before this Court that in the recent past the petitioner is not in touch with the Counsel and he further made request to learned Single

Judge that in the event the petitioner is not in a position to meet him or if unfortunately he is not available or passed away, the benefits be extended to legal heirs. Learned Single Judge accepted the request and then directed respondent Nos.3 and 4 to make available the benefits of the petitioner to the legal heirs of the petitioner if the situation so occurs.

3. The documents placed on record shows that on 26.02.2017 the management of the institute by holding meeting passed a resolution to submit proposal for grant of benefits to the petitioner - Shambhu Sadashiv Patil. Perusal of this document shows that Mr.Shambhu Sadashiv Patil expired during the pendency of the petition. The Headmaster submitted the proposal to the Education Officer on 20.04.2017, with reference to the order of this Court and it is stated in the letter dated 20.04.2017 that all the necessary documents are annexed to the proposal.

4. In view of these facts, anxiety of the petitioner is justifiable, namely, early decision on the proposal dated 20.04.2017. Considering all the above facts, we dispose of the petition with direction to respondent No.3-Education Officer (Secondary), Zilla Parishad, Nandurbar to decide the proposal dated

20.04.2017, as early as possible, if not decided till date and not later than 10 weeks from the date of order of this Court on the merits of the proposal and on the backdrop of order of the learned Single Judge dated 19.01.2017.

[S.M.GAVHANE, J.]

[PRASANNA B.VARALE, J.]