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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4460 OF 2019

Prakash Kashinath Patil ..Petitioner
vs.
The State of Maharashtra & ors. ..Respondents

....
Shri V.s. Kumbhar I/b. Ms. A.N. Bandiwadekar for petitioner.
Ms. M.S. Bane, AGP for respondent Nos. 1 and 2.

....
CORAM : M.S.KARNIK, J.

DATE : 9th APRIL, 2019

P.C. :

Leave to amend so as to delete respondent Nos.3 and 4 from the array of respondents. Amendment to be carried out forthwith.

2. Rule. Rule is made returnable forthwith by consent of the parties and heard finally.

3. By an order dated 19th April, 2017 passed by this Court in Writ Petition No. 11413 of 2016 filed by the petitioner, directions were issued to respondent No.2 to decide the proposal for approval of the appointment of the petitioner.

4. It is the grievance of the learned Counsel for the petitioner that the proposal was not decided within the time stipulated by this Court. The petitioner therefore had to file Contempt Petition. It is his submission that respondent No.2 was upset because Contempt Petition was filed and therefore, proceeded to reject the proposal for approval by an order dated 22nd November, 2018 impugned in this Petition.

5. I have gone through the impugned order passed by respondent No.2. This Court while directing the Education Officer to decide the proposal had clearly indicated that the petitioner's claim to be re-examined in the light of the observations made by the Division Bench in the case of **Uddhav Trimbak Umbare vs. State of Maharashtra and Ors.** decided on 1st February, 2013 in Writ Petition No. 9398 of 2012. Several reasons have been given by respondent No.2 for rejecting the proposal.

6. At paragraph 8 of the impugned order I find that the Education Officer has referred to the decision of this Court in

Uddhav Trimbak Umbare case and held that as **Uddhav Trimbak Umbare** case was in respect of appointment made to the Higher Secondary, therefore, GR dated 31st January, 2011 would be applicable to only those who are working in Higher Secondary.

7. It is surprising to note that though in paragraph 7 of the impugned order the Education Officer has stated that GR dated 10th June, 2005 provides for appointment of a Part Time Teachers on Full Time Basis when post become available on the terms and conditions mentioned therein, then does not give any reason as to why the petitioner's appointment cannot be approved on the basis of GR dated 10th June, 2005.

8. The petitioner's case needs to be reconsidered not only in the light of the **Uddhav Trimbak Umbare** case but also in the light of GR dated 10th June, 2005.

9. The impugned order is therefore quashed and set aside.

10. The Education Officer to re-examine the proposal after hearing the petitioner and pass a fresh order in terms of the order passed in **Uddhav Trimbak Umbare** case and also GR dated 10th June, 2005. He may do so within a period of 6 weeks from today.

11. The Writ Petition is partly allowed in above terms.

12. Rule is partly made absolute with no order as to costs.

(M.S.KARNIK, J.)