

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7390 OF 2017

Mrs.Jyoti Santosh Ghorpade & Anr. ... Petitioners.
V/s.
The State of Maharashtra & Anr. ... Respondents.

Mr.N.V. Bandiwadekar i/b Mr.S.A.Mane for the Petitioners.
Mr.S.B.Kalel AGP for Respondent Nos.1 and 2 – State.

**CORAM : R. M. BORDE AND
N. J. JAMADAR, JJ.
DATE : 19TH JULY, 2019.**

P.C.:

1] Petitioner No.1 is an employee in the school operated by Petitioner No.2 – Institution. Petitioner No.1 was appointed as the Junior Clerk (Shikshan Sevak) in the year 2016. The proposal tendered by the Institution seeking approval to appointment of petitioner no.1 was turned down initially stating that the institution has not adhered to the policy prescribed by the State Government of accommodating surplus employees and have proceeded to fill in the post by appointing petitioner no.1 directly. The institution tendered explanation pointing out that the policy of accommodating surplus employees shall not be made applicable to the minority institution and the reasons recorded for rejection of proposal for according approval to appointment of petitioner no.1 is erroneous and the proposal needs to be reconsidered.

2] On second occasion, the proposal tendered by the institution has been turned down by the order dated 18th March, 2017 pointing out various deficiencies. It is case of the petitioners that deficiencies pointed out by the Education

department have been removed and a communication in that regard has been issued on 26th April, 2017. If that be so, it would be responsibility of respondent no.2 to reconsider the proposal and pass appropriate order. If at all there are any further deficiencies, Respondent No.2 shall ensure removal of deficiencies by petitioner no.2 - institution. Respondent No.2 shall not reject the proposal for according approval to the appointment of petitioner no.1 merely on the ground that petitioner no.2-institution has failed to accommodate surplus employees enlisted in the list maintained by Zilla Parishad. Since the policy prescribed by the State is not applicable to minority institution in view of judgment of the Division Bench of this Court passed in Writ Petition No.3707 of 2013 dated 2nd September, 2013 in the matter of Parbhani Education Society vs. The State of Maharashtra and Anr. as well as the judgment of the Apex Court in the matter of Ahmedabad St.Xavier's College Society & Anr. vs. State of Gujarat & Anr. Reported in (1974) 1 SCC 717; Respondent No.2 shall take appropriate decision on the proposal for according approval of petitioner no.1 as expeditiously as possible and in adherence to the observations made in the instant judgment preferably within a period of four months from today and it is, accordingly, directed. The writ petition is disposed of, accordingly. There shall be no order as to the costs.

(N. J. JAMADAR, J.)

(R. M. BORDE, J.)