

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

**CONTEMPT PETITION NO.648 OF 2019
IN
WRIT PETITION NO.3738 OF 2018**

Nivrutti S/o Laxman Patil
Age:37 years, Occu.:Nil
R/o Uchande, Tq.Muktainagar
Dist.Jalgaon

PETITIONER

VERSUS

1. The State of Maharashtra
Department of School Education and
Sports,
Mantralaya, Mumbai
Through its Secretary
2. Education Officer(Secondary)
Zilla Parishad,Jalgaon
3. Tapi Purna Parisar Vidya Prasarak Mandal
At Po.Uchande,Tq.Muktainagar, Dist.Jalgaon
Through its President,
Manik s/o Jagannath Patil,
Age: 60 years, Occ:Business
R/o As above
4. Ghate Anant Shankar School and Junior College,
Uchande,
Tq.Muktainagar, Dist.Jalgaon, Through the
Headmaster, Radhesham s/o Aatmaram Chaudhari,
Age: 50 years, Occ:Service
R/o.As above

RESPONDENTS

Mr P.V.Mandlik, Senior Advocate i/b Mr P.P. Mandlik,
Advocate for the petitioner;
Mrs P.V. Diggikar, A.G.P. for respondent-State;
Mr A.G.Talhar, Advocate for respondent Nos.3 & 4;

**CORAM : PRASANNA B. VARALE &
R.G. AVACHAT, JJ.**

DATED : 3rd FEBRUARY, 2020

ORAL ORDER:

Heard Mr. Mandlik, learned Senior Counsel for the petitioner.

2. By order dated 23rd September, 2019, simple notice was issued to respondent Nos. 3 and 4 i.e. President of Tapi Purna Parisar Vidya Prasarak Mandal and the Headmaster of Ghatge Anant Shankar School and Junior College, Uchande, Tq. Muktainagar, Dist. Jalgaon (being run by respondent No.3 Society).

3. Mr. Mandlik, learned Senior Counsel appearing with Mr. P.P.Mandlik, learned Counsel invited our attention to the order of this Court dated 13th March,

2019 passed in Writ Petition No.3738 of 2018 and more particularly, the concluding statement of paragraph No. 5 and the ultimate direction referred to in paragraph No. 6 of the order. Mr Mandlik, Senior Counsel, then invited our attention to the communication forwarded by the Education Officer prior to the order of this Court in the year 2017 and subsequent to the order of this Court dated 18th June, 2019 to submit that the Education Officer was consistently issuing directions to the institute to forward the proposal with grant of approval/appointment to the petitioner.

4. Per contra, it is submitted by Mr. Talhar, learned Counsel appearing for respondent Nos. 3 and 4 that respondent Nos.3 and 4 could not find any favour in the claim of the petitioner for compassionate appointment on various grounds. It was an attempt of Mr. Talhar, learned Counsel for respondent Nos. 3 and 4 that the petitioner is earning handsome amount from his agricultural income, wife of the petitioner is working

as *Anganwadi Sevika* and mother of the petitioner is receiving pension of Rs.22,000/- per month. Thus, the submission, in short, was that the petitioner, who is financially sound, was not entitled for compassionate appointment. As such, respondent No.3 – Society forwarded the communication to the petitioner on 3rd July, 2019.

5. The modified rules placed on record in respect of compassionate appointment clearly show that these rules are applicable to the private Primary, Secondary and Higher Secondary Schools as well as to the Teachers Training School in the State of Maharashtra. There are procedural modalities and clause-6(b) states that the Education Inspector/Education Officer (Primary) and (Secondary) on receipt of the applications seeking appointment on compassionate grounds to consider these applications on seniority basis and priority is given for the appointment in the very school wherein appointment is claimed in the place of deceased employee of the school

and if no vacancy is available in the very school, then the claim be considered in other school. This circular makes clear that the appointing authority to take into consideration the various factors, such as, any amount received by the family members towards pension, number of family members, number of earning members in the family etc.

6. Considering these facts, we are of the opinion that respondent Nos. 3 and 4, instead of taking decision and informing it to the petitioner, ought to have submitted the proposal of the Education Officer in response to the communication dated 18th June, 2019 with their objections and the Education Officer (Secondary), Zilla Parishad, Jalgaon is required to consider the proposal forwarded through the respondent Nos.3 and 4 on its own merits. At this stage, Mr Talhar, learned Counsel appearing for respondent Nos. 3 and 4 submitted before this Court that respondent Nos. 3 and 4 would submit proposal to the Education Officer, Secondary,

Zilla Parishad, Jalgaon within two weeks with their objections. On receipt of the proposal within two weeks, Education Officer (Secondary), Zilla Parishad, Jalgaon to take a decision within four weeks. In case, the Education Officer, Secondary, Zilla Parishad, Jalgaon is of the opinion that the hearing of the parties would facilitate him to pass effective orders, he may undertake this exercise by a pre-intimation to the parties.

7. With these directions, contempt petition is disposed of.

[R.G. AVACHAT, J.]

[PRASANNA B. VARALE, J.]