

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

**1024 WRIT PETITION NO.10268 OF 2019
WITH CA/13151/2019 IN WP/10268/2019**

VIDYAMRUT SHIKSHAN PRASARAK MANDAL DEONI THROUGH
ITS SECRETARY AND OTHERS ..PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

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Mr. Pratap G. Rodge, Advocate for the Petitioners.
Mrs. M. A. Deshpande, AGP for Respondents-State.
Mr. M. A. Shaikh Jahagirdar h/f Dr. Swapnil D.
Tawshikar, Advocates for Applicant in
CA/13151/2019.

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**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATED : 13th MARCH, 2020.

PER COURT:-

1. At the request of learned counsel for petitioners leave to amend and challenge order dated 01.10.2019.

2. The petitioner no.3 is appointed as Peon on 07.09.2012 and petitioner no.4 is appointed as Junior Clerk also on 07.09.2012 with petitioner no.2-College. The proposal seeking approval to their appointments is rejected. The rejection of the proposal is basically on the ground that petitioner nos.1 and 2 failed to appoint Smt. Pratiksha Govind Giri on compassionate ground.

3. There were earlier rounds of litigation. We may not go into the said details. In one of the writ petition filed by Smt. Pratiksha Giri we had

observed that we would not like to disturb the present persons that are already appointed.

4. From the available material on record it appears that, petitioner nos.1 and 2 initially ought to have appointed Smt. Pratiksha Giri on compassionate ground in the year 2008 or when the post was available, instead petitioner nos.1 and 2 appointed petitioner nos.3 and 4 in the year 2012 on class IV and III post. It is only with a view that almost 8 years have lapsed since the date of their appointments we have not unsettled them. However, right of Smt. Pratiksha Giri to be appointed on compassionate ground subsisted.

5. Mr. Rodge, learned counsel submits that one class IV post is vacant and the intervener Smt. Pratiksha Giri can be appointed on the said post. The learned counsel submits that on 16.03.2020 the appointment order would be issued to said Smt. Pratiksha Giri and she can join on the same date.

6. Dr. Tawshikar, learned counsel alongwith Mr. Jahagirdar, learned counsel appear for intervener and submit that the intervener would accept the said appointment. The intervener has a qualification for class III post. In fact, she can be appointed on class III post also.

7. It appears that, today one post for class IV is available according to the petitioner. Immediately the appointment order would be issued to said Smt. Pratiksha Giri and she would join on 16.03.2020.

8. It is further made clear that, as and when the class III post would be available, petitioner nos.1 and 2 shall consider said Smt. Pratiksha Giri for promoting/appointing her on class III post commensurate to her qualification. The said claim shall be considered in preference to petitioner no.3 and in that event, petitioner no.3 shall have no grievance about the seniority.

9. The impugned orders are quashed and set aside. The respondent no.2 shall grant approval to the appointments of petitioner nos.3 and 4. The proposal for approval to the appointment of said Smt. Pratiksha Giri shall also be forwarded by petitioner nos.1 and 2 within a period of two weeks from the date of appointment and her joining. The respondent no.2 shall consider the said proposal and take decision upon it preferably within a period of three months.

10. Writ Petition is disposed of. No costs.

11. In view of disposal of writ petition, present civil application is also disposed of.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE