

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

WRIT PETITION NO.4081 OF 2019

Pranali Madhukar Sonawane

.. Petitioner

Vs.

The State of Maharashtra and Ors

... Respondents

Ms. Bhavana Khichi, for the Petitioner.

Ms. M.S. Bane, AGP, for Respondent Nos. 1 and 2.

CORAM : N.J. JAMADAR, J.

DATE : MARCH 11, 2020

PC.

1. Rule. Rule made returnable forthwith and with the consent of the learned Counsels for the parties heard finally at the stage of admission.

**V. S.
Parekar**

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2. The petitioner has invoked the writ jurisdiction of this Court being aggrieved by non-consideration of the proposal submitted by the Institution i.e. Respondent no.3, for her transfer and appointment from an unaided division to aided division of the Respondent no. 4 -school, wherein the petitioner is working as an Assistant Teacher since 1st July, 2013. The Respondent No. 4 had forwarded a proposal for transfer and appointment of Petitioner in the aided division of the

Vishal Parekar, PA

school with effect from 24th September, 2018 as a vacancy arose. Respondent nos.3 and 4 claimed that Petitioner fulfilled the requirement for the appointment in the aided division and the management had complied with the requirements prescribed by Government Resolution dated 28th June, 2016.

3. It is the claim of the Petitioner that Respondent no.2 has not considered and decided the said proposal. Instead, by an order dated 20th December, 2018, respondent no.5 came to be posted on the said post, as a surplus teacher. The petitioner has thus prayed for a decision on the proposal submitted by respondent no.4 and in the meanwhile respondent no.2 be restrained from implementing the order dated by 20th December, 2018.

4. By an order dated 3rd April, 2019, this Court has granted ad-interim relief in terms of prayer clause (e), which reads as under:

“(e) Pending hearing and final disposal of the present writ petition stay the effect, implementation, operation and/or the execution of the impugned order dated 20/12/2018 passed by respondent no.2 and further respondent no.2 be restrain from taking any step in the appointment of surplus teacher with respondent nos.3 and 4.”

5. The situation which thus emerges is that the decision on the proposal of respondent no.4 regarding the appointment of the petitioner has yet not been taken. A surplus teacher came to be appointed, which is stated to be in conformity with sub-clause (3) of Clause 3 of the Government Resolution dated 28th June, 2016. By an interim order this Court has granted ad-interim relief in the aforesaid terms.

6. In this view of the matter, it would be in the fitness of things that the respondent should pass a formal order on the proposal submitted by respondent no.4 dated 24th September, 2018, in accordance with the governing rules and the Government Resolution.

7. Hence, the following order:

- (i) The writ petition stands disposed of with a direction to respondent no.2 to pass an appropriate order on the proposal submitted by respondent no.4 dated 24th September, 2018 in accordance with the rules and the Government Resolution, dated 28th June, 2016.

- (ii) Interim order passed by this Court shall continue to operate till respondent no.2 take such a decision.
- (iii) It is hereby made clear that this Court has not considered the merits of the matter, nor justifiability of the claim of the petitioner. All contentions are expressly kept open for consideration.
- (iv) Rule made absolute in aforesaid terms. No costs.

[N. J. JAMADAR, J.]