

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

WRIT PETITION NO.6837 OF 2019

Aishwarya Kathod Desale and Anr. ...Petitioners

Versus

The State of Maharashtra and Anr. ...Respondents

...

Mr. Narendra Bandiwadekar a/w. Mr. Vinayak Kumbhar i/b.

Ms. Ashwini Bandiwadekar for the Petitioners

Mr. C.D. Mali, AGP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED :28th SEPTEMBER, 2020.

P.C.:-

Rule. Rule made returnable forthwith. With consent of the learned counsel for the respective parties, matter is heard finally at the stage of admission.

2. The Petitioner has challenged the order dated 16/05/2019 passed by the Respondent No.2 rejecting the proposal for approval to the appointment of the Petitioner No.1 as 'Shikshan Sevak' in the school of the Petitioner No.2-Institution.

3. By appointment order dated 11/06/2017 the Petitioner No.1 was appointed as 'Shikshan Sevak' in an open category post for a period of three years w.e.f. 15/06/2017 in the school run by the Petitioner No.2. In a meeting of the School Committee a resolution was passed approving the appointment of the Petitioner No.1. The Head Master submitted a proposal dated 14/12/2017 to the Respondent No.2-Education Officer seeking approval to the appointment of the Petitioner No.1. After initial reluctance the Respondent No.2 accepted the proposal submitted vide letter dated 14/12/2017. It is stated that the deficiency pointed out by the Respondent No.2 were cleared, despite which the proposal was kept pending. The proposal was re-submitted on 11/03/2019 after removing the deficiency and making necessary compliance. By the impugned order dated 01/06/2019, the Respondent No.2 has refused to grant approval to the appointment of the Petitioner No.1 on the ground that the documents referred to in the said order have not been annexed to the proposal.

4. Mr. Bandiwadekar, learned counsel for the Petitioners submits that the documents referred to in the impugned order are

already submitted. Nevertheless, the Petitioners are ready to furnish fresh copies of the said documents, if so required by the Education Officer. He submits that the Education Officer was not justified in rejecting the proposal on such a hypertechnical ground.

5. The Education Officer has not rejected the proposal on merits but rejected solely on the ground of non submission of certain documents mentioned in the impugned order. The approach appears to be pedantic and hypertechnical. Considering the statement of the learned counsel for the Petitioners that the Petitioners would produce the said documents before the Education Officer, in my considered view this would be a fit case to remit the matter to the Education Officer to decide the issue on its own merits.

6. Hence, the petition is allowed. Impugned order is set aside. The matter is remitted to the Education Officer with directions to give an opportunity to the Petitioners to produce the documents and to decide the proposal on its own merits as expeditiously as possible and in any event within a period of four

weeks from the date of appearance of the parties. Parties are directed to appear before the Education Officer on 19/10/2020.

7. Rule is made absolute in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)

Megha
Parab

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by Megha Parab
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