

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

WRIT PETITION (ST) NO.30645 OF 2019

Nikita Dilipsing Girase and Ors. }	Petitioners
versus	
The State of Maharashtra }	
and Ors. }	Respondents

Mr.S.S.Thombre for the Petitioners.

Mr.B.V.Samant-AGP for Respondent Nos.1 and 2
(State).

Mr.Vinod Mahadik for Respondent Nos.3 and 4.

**CORAM :- S. C. DHARMADHIKARI &
R. I. CHAGLA, JJ.**

DATED :- JANUARY 22, 2020

P.C. :-

1. We have heard Mr.Thombre appearing for the petitioners.

2. The petitioners claim that all of them are eligible and therefore, applied as per the advertisement dated 8th March, 2019. They submitted their preferences. The whole process being on-line, the preferences were locked. The petitioners claim that as per the merit and marks secured by them in the Teachers' Aptitude and Intelligence Test, all the petitioners were recommended as per the list of recommended applicants, without interview, on 9th August, 2019. The 156 candidates are listed at

Exhibit 'J' to the petition. The petitioners state that their names were recommended as per the marks and they were directed to report to respondent no.3. The copies of recommendation letters are annexed and marked as Exhibit 'K' collectively.

3. The writ petition claims a writ of mandamus or any other writ, order or direction in the nature thereof directing the third respondent to issue appointment orders to the petitioners as per these recommendation letters issued by the second respondent and to allow them to join on the post of Assistant Teachers for 9th and 10th Standard classes.

4. After hearing Mr.Thombre and perusing this writ petition, we are of the firm view that the settled principle would apply in this case. The facts of this case project a claim of the petitioners to have been recommended for appointment. After being recommended, they were not allowed to report for duties or appointed as such so that they can teach the classes. The petitioners claim to be teachers. Their case can be no different than others for in service jurisprudence the settled principle is that one does not derive an indefeasible right, particularly on being recommended. Even if a select list is prepared, the candidates listed therein have no indefeasible right to seek appointment.

5. Ultimately, no writ of mandamus can go to appoint a candidate. In the present case, the recommendations are of 9th August, 2019. This writ petition is filed on 3rd December, 2019. The writ petition proceeds to state that the petitioners are eligible and that there is a mandate to appoint. Far from that, on the own showing of the petitioners, the scheme is that meritorious candidates are recommended for appointment.

6. Once there is no mandate to appoint, but to merely consider cases of meritorious candidates for appointment, then, the writ petition is entirely misconceived. It is dismissed. There would be no order as to costs.

(R.I.CHAGLA, J.)

(S.C.DHARMADHIKARI, J.)