

JPP

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

WRIT PETITION NO. 2109 OF 2021

Priya Prakash Kadam

... Petitioner

V/s.

State of Maharashtra

Through the Secretary and Ors.

... Respondents

Mr. Anvil S. Kalekar for the Petitioner

Ms. K.N. Solunke, AGP for the Respondent - State

***CORAM : NITIN JAMDAR &
C.V. BHADANG, JJ.***

(Through Video Conferencing)

DATE : 1 JULY 2021

P.C. :

Heard the learned Counsel for the parties.

2. The Petitioner is working with the Respondent No.5 – H.D. Prashala Junior College, Solapur of the Respondent No.4 – Education Institute. It is the case of the Petitioner that the Petitioner has acquired qualification of M.A.M.Ed. and belongs to open category. An advertisement was issued on 19 September 2011 as permission to issue advertisement to Respondent No.4 – Trustee to

publish advertisement in the newspaper for appointment of teachers was issued and according to the Petitioner, the Petitioner's appointment was made as per this advertisement and appointment letter was given to the Petitioner on 3 November 2012. The proposals for the Petitioner's appointment was sent to the Respondent – Education Authorities on 25 February 2015 and 3 March 2020. Thereafter, the Petitioner has filed this Petition making a grievance that the proposal in respect of the Petitioner's appointment is not being decided.

3. When the Petition came up on board on 23 June 2021, the learned AGP had taken time to take instructions as to within how much time the proposal would be decided. The learned AGP states that instructions have been received that the pending proposal will be decided within three months from today. The statement is accepted.

4. Considering the large number of matters and the orders passed by this Court, the State Government has issued a Government Resolution dated 6 February 2012 that the proposal for approval of teachers and non-teaching staff of the educational institute should be decided within six months. Yet, from the Petitions being filed in this Court it is clear that the timeline stipulated is not being adhered to.

5. Section 80 of the Code of Civil Procedure provides for a notice 60 days before filing a suit against the Government or against any public officer, in respect of any act purported to be done by such public officer in his official capacity. The rationale of this provision is that such a public officer can have time to take remedial steps if warranted so that further litigation against the State can be avoided. Though this provision will not apply for invoking writ jurisdiction, before making a grievance regarding the pending proposal, if the teacher gives sixty days legal notice to the Education authorities, it is possible that many of such grievances can be worked out. In cases even after such notice is received and no action is taken, then the Court can take cognizance of the same. The State Government has set up a Study Group for reduction of the cases against the Education Department pending in the High Court. The Study Group may consider the feasibility of this aspect. The office of the Government pleader will send the copy of this order to the Study Group.

6. The Writ Petition is disposed of after accepting the statement of the learned A.G.P as above.

C.V. BHADANG, J.

NITIN JAMDAR, J.