

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

WRIT PETITION NO. 13841 OF 2017

Shri Chhatrapati Shivaji Vidyamandiar Dhayati
and Ors.

... Petitioners

Versus

The State of Maharashtra and Ors.

... Respondents

Mr. S. S. Kanetkar for the Petitioner.

Ms. Kavita N. Solunke, AGP for the State-Respondents.

**CORAM: R. D. DHANUKA AND
ABHAY AHUJA, JJ.**

DATE : 1st OCTOBER, 2021.

P.C. :-

. Rule. Rule is made returnable forthwith. Learned AGP for the respondents waives service. By consent of parties, petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioners are seeking directions of this Court to respondent no.4 to decide the proposal submitted by the petitioner no.1-School to the respondent no.4 dated 3rd January, 2017 for approval of the petitioner no.2 as full time Assistant Teacher in the petitioner no.1-School.

3. It is the case of the petitioner no.1-School that pursuant to the Advertisement dated 23rd May, 2001, petitioner no.2 was appointed on

9th June, 2001 as Assistant Teacher in petitioner no.1-School. It is submitted that on the date of appointing the petitioner no.2, the petitioner no.2 was in service as part time Assistant Teacher and was made permanent on 27th December, 2016. On 3rd January, 2017, pursuant to the appointment of the petitioner no.2 as permanent Assistant Teacher, the petitioner no.1 sent a proposal for approval of the appointment of the petitioner no.2 to respondent no.4. However, instead of considering the proposal on 31st December, 2017 being Exhibit 'F' to petition, the respondent no.4 passed a Government Order directing the petitioner no.1 to absorb Mr. Vishwaskumar Vithal Ghodake as surplus quota in their school. On 6th November, 2017, the petitioner no.1 sent a reply in respect of the same stating that the said surplus quota was already full and would not be able to accommodate or absorb the said candidate. Thereafter, reminders were sent, however, the respondents have failed to respond to the same.

4. Learned AGP submits that she is not aware whether the proposal is available with the Education Officer's record or not.

5. Considering the above circumstances, we are of the view that this petition deserves to be allowed in the following terms :-

- (i) The petitioner no.1 is directed to forward a copy of the proposal already submitted duly acknowledged within one week from today.
- (ii) In the event, the original copy of the proposal is not available in

the record of the Education Officer, the Education Officer to consider the photo copy that would be furnished by the petitioner with acknowledgment as the proposal and to consider the same within period of four weeks from the date of receipt of copy.

(iii) The order that would be passed by the Education Officer shall be communicated to the petitioners within a period of one week from the date of passing of the said order. If the said order is adverse against the petitioner no.2, same shall not be implemented for a period of two weeks and the petitioners are at liberty to take appropriate decision.

(iv) Till the date of receipt of the order on the proposal passed by the respondent no.4, the *ad-interim* order granted by this Court on 20th December, 2017 to continue for a period of two weeks from the date of communication of the order, if the said order is adverse to the petitioner no.2.

(v) Writ Petition is disposed of in aforesaid terms. Rule is made absolute accordingly. There shall be no order as to costs.

(vi) Parties to act on the authenticated copy of this order.

[ABHAY AHUJA, J.]

[R. D. DHANUKA, J.]