

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14063 OF 2017

Nayana Dattatray More

..... Petitioner

VERSUS

**The Head Master,
Suravase Primary School & Ors.**

..... Respondents

Mr.I.M.Khairdi, a/w. Mr.Rushikesh Kale, i/b. Mr.Yogiraj Purwant for the Petitioner.

Mr.Prasad B.Kulkarni for the Respondent nos. 1 and 2.

Mr.Vijay Killedar for the Respondent no.4.

Mrs.P.N.Diwan, A.G.P. for the State – Respondent no.5.

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

DATE : 30th NOVEMBER, 2021

P.C:-

Leave to amend is granted to the petitioner to delete the name of the respondent no.3 from the cause title of the petitioner as he is not the concerned officer in the matter in hand. Leave to amend is granted to the correct the cause title of the respondent no.4 also. Amendment to be carried out forthwith. Re-verification is dispensed with.

2. Rule. Mr.Kulkarni, learned counsel waives service for the

respondent nos. 1 and 2. Mr.Killedar, learned counsel waives service for the respondent no.4. Ms.Diwan, learned A.G.P. waives service for the respondent no.5. By consent of parties, writ petition is heard finally.

3. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks writ of mandamus directing the respondent no.3 to decide and grant the approval to the post of the petitioner by granting the proposal dated 16th July, 2014 forwarded by the respondent no.2 in respect of the proposal of the petitioner.

4. Mr.Killedar, learned counsel for the Education Officer (Primary) on instructions received in writing dated 30th November, 2021 states that the Education Officer (Primary), Zilla Parishad would be the Officer who has to decide and has power to grant the approval to the post of the petitioner by considering the proposal dated 16th July, 2014 forwarded by the respondent no.2. He states that the copy of the proposal which is annexed to the petition at page 16 is not traceable in the office of he respondent no.4. He submits that if the copy of the said proposal dated 11th September, 2014 referred in the said

communication dated 17th June, 2015 is produced before the respondent no.4 or a fresh proposal is submitted by the petitioner, the same would be considered within a period of ten weeks from today.

5. Mr. Khairdi, learned counsel for the petitioner agrees to produce a copy of the said letter dated 17th June, 2015 referring to the said proposal dated 11th September, 2014 duly acknowledged by the Zilla Parishad within one week from today.

6. The respondent no.4 shall trace-out the original of the said proposal submitted by the petitioner and shall consider the same within a period of eight weeks from the date of the petitioner filing the copy of the said proposal duly acknowledged.

7. If the respondent no.4 is not able to trace the original of the said proposal submitted by the management, copy that would be submitted by the petitioner shall be considered w.e.f. 11th September, 2014 and shall be considered within eight weeks from the date of the petitioner furnishing the copy of the said proposal and communicate the order that would be passed to the petitioner as well as to the management within one week from the date of passing of the said order. If the order

is adverse against the petitioner, the petitioner would be at liberty to file appropriate proceedings.

8. If the order is in favour of the petitioner, the Education Officer shall grant all the consequential benefits to the petitioner within four weeks from the date of passing of the said order.

9. *Ad-interim* relief granted by this Court by an order dated 20th December, 2017 in terms of prayer clause (b) to continue till the decision is taken by the respondent no.4 on the proposal submitted by the management and for a period of three weeks from the date of communication of the order if the same is adverse against the petitioner.

10. The management also shall not take any coercive steps against the petitioner for want of approval till the order is passed and communicated to the petitioner as well as the management by the respondent no.4 for a period of three weeks from the date of communication if the said order is adverse against the petitioner.

11. The management shall allow the petitioner to sign the muster

from tomorrow.

12. Writ petition is allowed in the aforesaid terms. Rule is made absolute accordingly. No order as to costs.

13. The parties to act on the authenticated copy of this order.

[ABHAY AHUJA, J.]

[R.D.DHANUKA, J.]