

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

WRIT PETITION NO.3977 OF 2019

Smt. Usha Vijay Mativadda	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

Mr. Prashant Bhavake, Advocate for Petitioners.
Mr. Umesh H. Pawar, Advocate for Respondent Nos.6 and 7.
Mr. N. K. Rajpurohit, AGP for Respondent Nos.1 to 5.

**CORAM : R. D. DHANUKA, AND
 ABHAY AHUJA, JJ.
DATE : 16th SEPTEMBER, 2021.**

P.C. :

1. The short controversy involved in this Petition is whether Government Resolution dated 2nd May 2012 would apply to the appointments made on compassionate ground or not.

2. Rule. Mr. Rajpurohit, learned AGP for Respondent Nos.1 to 5 and learned counsel for Respondent Nos.6 and 7 waives service. By consent of learned counsel for the respective parties, Petition is heard finally.

3. It is not in dispute that the Petitioner was appointed on compassionate ground due to the demise of the husband of the Petitioner in the Respondent No.6-Institution on 4th March 2009. The Headmaster of

Respondent No.7-School submitted a proposal for approval to the said appointment to the Education Officer. The Education Officer vide Order dated 7th May 2017 refused to grant the approval on the ground that there was ban on recruitment vide Government Resolution dated 2nd May 2012.

4. In catena of decisions of this Court, it has been already held that the Government Resolution dated 2nd May 2012 does not apply to the appointment made on compassionate basis. The latest Judgment on this issue is delivered by this Court on 30th July 2021 in case of ***Sunil Gundu Desai V/s. State of Maharashtra & Others in Writ Petition No.4673 of 2019*** and the Judgment delivered by this Court in case of ***Vivek Shankar Kore V/s. The State of Maharashtra & Others in Writ Petition No2350 of 2020***. These Judgments apply to the facts of this case. The impugned Order is contrary to the view taken by this Court and thus deserved to be quashed and set aside. Mr. Rajpurohit, learned AGP for the Respondent Nos.1 to 5, though tried to distinguish the Judgments of this Court in case of ***Sunil Gundu Desai V/s. State of Maharashtra & Others (supra)*** could not distinguish.

5. We, therefore passing the following Order :-

(a). Writ Petition is made absolute in terms of prayer clause

(b).

- (b). It is, however, made clear that the approval shall be granted within four weeks from today and the grant-in-aid accordingly from the date of initial date of appointment shall be granted within four weeks thereafter.
- (c). Writ Petition is allowed in the aforesaid terms. Rule is made accordingly. No Order as to costs.
- (d). All the parties to act on the authenticated copy of this order.

(ABHAY AHUJA, J.)

(R. D. DHANUKA, J.)

Digitally
signed by
TAUSEEF
LAIQUEE
FAROOQUI
Date:
2021.09.20
18:39:18
+0530