

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

Amk

WRIT PETITION NO. 3534 OF 2019

Akshaykumar Shrikrushna Mali .. Petitioner
Vs.
President/Secretary, Verla Shikshan
Sanstha, Rampur & Ors. .. Respondents

Mr. Kishor Patil i/b Mrs. Aarti P. Bhide for the Petitioner.
Mr. N. C. Walimbe, AGP for the Respondent Nos.3 to 5-State.

**CORAM : R. D. DHANUKA &
ABHAY AHUJA, JJ.**
DATE : 24th SEPTEMBER, 2021.

P. C. :

1. By this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for an order and directions against the respondent to confirm the petitioner as deemed confirmed employee under Section 5(2A) of the Maharashtra Employees Private Schools (Conditions of Service) Act, 1971 and to give approval, salary and other benefits and other reliefs. There is no dispute between the petitioner and the management.

2. Mr. Patil, learned counsel for the petitioner invited our attention to the impugned order dated 10.01.2019 thereby rejecting the proposal made by the management to the appointment of the petitioner on compassionate ground on the ground that according to Government Resolution dated 12.02.2015 there was ban on appointment of non-teaching staff.

3. In catena of decisions delivered by this Court, it is held that the said Resolution dated 12.02.2015 does not apply to the appointment which is made on compassionate ground. In our view the said order

dated 10.01.2019 is contrary to law laid down by this Court. Learned AGP tenders a copy of the letter dated 24.09.2021 received from the Education Officer (Secondary), Zilla Parishad, Sangli to the AGP instructing that the Education Officer (Secondary) received instructions from the Director of Education (Secondary and Higher Secondary) dated 01.03.2021 and informed that in view of there being certain deficiencies in the proposal submitted by the management dated 05.07.2021, the proposal submitted by the management is returned. It is further stated that after such deficiencies are complied, further action on the basis of such proposal would be taken. The letter dated 24.09.2021 is taken on record and marked 'X' for identification.

4. Accordingly, we direct the management to cure the deficiencies in the said proposal as prescribed in the said letter dated 24.09.2021 by the Education Officer to the learned AGP within two weeks from the date of publication of this order. Copy of the fresh proposal, if any, shall be submitted by the management to the Education Officer. After compliance in the said proposal, the management shall submit the said proposal to the Education Officer (Secondary) to approve the appointment of the petitioner to the said post on compassionate ground from the date of appointment and shall release the grant-in-aid and all terminal dues to the petitioner within four weeks. From the date of granting approval, name of the petitioner shall be included in the Salarth ID within two weeks. While granting approval to the petitioner, the Education Officer shall take into consideration the view taken by this Court in earlier paragraph of the order holding that G. R. dated 12.02.2015 does not apply to the appointment of the petitioner.

5. The writ petition is allowed in the aforesaid terms. No order as to costs.
6. The petitioner to convey this order to the management.
7. Parties to act on the authenticated copy of this order.

[ABHAY AHUJA, J.]

[R. D. DHANUKA, J.]

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