

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4187 OF 2019

Samadhan Narayan Nathe & Ors

...Petitioners

Versus

State of Maharashtra & Anr.

...Respondents

Mrs. Pranita P Hingmire for the Petitioners.

Mr. N.K. Rajpurohit, AGP for the Respondents.

CORAM : R.D. DHANUKA &
R.I. CHAGLA, JJ.

DATE : 24 August 2021

ORDER :

1. Rule. Learned AGP waives service for Respondent

Nos. 1 and 2. Heard finally by consent of the parties.

2. By this Petition filed under Article 226 of the Constitution of India, the Petitioner is seeking direction against Respondent No. 2 to grant approval to the appointment of the Petitioner No. 1 as Shikshan Sevak with effect from 27th June

2018 in the Petitioner No. 3-School.

3. The Petitioner No. 1 is working as Shikshan Sevak in the Petitioner No. 3-School run and managed by the Petitioner No. 2-Educational Institution. The Petitioner No. 3-School is recognized and receiving aid from the Respondent-State. The Petitioner No. 1 was appointed as Shikshan Sevak with effect from 27th June 2018 pursuant to the advertisement issued by Petitioner No. 2 on 22nd June 2018.

4. Petitioner No. 3 sent proposal dated 21st January 2017 to the Respondent No. 2 for approval to the appointment of Petitioner No. 1 as Shikshan Sevak. Reminder was also sent to the Respondent No. 2 by the Petitioner No.3 on 26th November 2017 as the proposal had not been considered. By the impugned order dated 14th January 2019, Respondent No. 2 rejected the approval to the appointment of the Petitioner No. 1 as Shikshan Sevak. Being aggrieved by the said order, the present Writ Petition is filed.

5. Learned Counsel for the Petitioner on instructions

makes a statement that upon the impugned order dated 14th January 2019 being set aside, the Petitioner shall make a fresh proposal to the Respondent No. 2 based on the prevailing Government Resolution dated 7th February 2019 and which shall be sent within a period of two weeks from today. Statement is accepted.

6. Having considered the above statement, it is noted that the impugned order dated 14th January 2019 was based on the Government Resolution dated 23rd June 2017 and in particular Clause 3.6 thereof which required the appointment of the Teachers to be done only through Pavitra Pranali. The said Government Resolution was thereafter considered by this Court (Nagpur Bench) in the case of **Stree Shikshan Prasarak Mandal & Ors. Vs. The State of Maharashtra, through its Secretary, Department of School Education and Sports & Ors.**¹ Upon considering clause 3.6 of the said Government Resolution dated 23rd June 2017, the said clause was set aside. Thereafter, the Respondent State issued new Government Resolution dated 7th February 2019 and in which Government Resolution, the previous Government Resolution dated 23rd June 2017 was

¹ 2018 O Supreme (Mah) 1608

cancelled. In view thereof, it would be necessary for the impugned order to be quashed and set aside in view of the Government Resolution dated 7th February 2019.

7. In view of the statement made by the Petitioner, following order is passed:-

- (i) The Petitioner Nos. 2 and 3 shall send fresh proposal to the Respondent No. 2 within a period of 10 days from today.
- (ii) Respondent No. 2 shall take decision on the fresh proposal sent by the Petitioner Nos. 2 and 3 which is for appointment of the Petitioner No. 1 as Shikshan Sevak with effect from 27th June 2018 within a period of six weeks thereafter in accordance with law.
- (iii) We make it clear that the Respondent No. 2 shall not be influenced by the decision dated 14th January 2019 taken by the Respondent No. 2 on the earlier proposal sent by the Petitioner Nos. 2 and 3 and which is the

subject matter of this Writ Petition.

(iv) The Writ Petition is accordingly, disposed of in the above terms.

(v) Rule made absolute accordingly. There shall be no order as to costs.

[R.I. CHAGLA J.]

[R.D. DHANUKA, J.]