

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4097 OF 2018

Bharat Shripati Sasane
vs.
The State of Maharashtra & Ors.

...Petitioner
...Respondents

Mr. Chetan G. Patil for the Petitioner.

Mr. N.K. Rajpurohit, AGP for Respondent Nos.1 & 2.

Mr. Mandar Bagkar for Respondent Nos.3 & 4.

**CORAM : S.C. GUPTA AND
SURENDRA P. TAVADE, JJ.**

DATE : 14 JANUARY 2021

P.C. :

1. Heard learned Counsel for the Petitioner and learned AGP for the Respondent-State.

2. This petition challenges an order passed by Respondent No.2 Deputy Director of Education, Kolhapur Division rejecting grant of approval to the appointment of the Petitioner to post of Lab Assistant in Respondent No.4 School. From the record produced before the Court, it is quite apparent that the impugned rejection order of 22 December 2017 was effectively like a requisition made for compliance. The impugned order was immediately responded to by the school management communicating *inter alia* satisfaction or compliance with the alleged deficiencies (the letter of Respondent No.4 dated 23 January 2018). This compliance was purportedly disregarded by Respondent No.2 on the ground that since the proposal was already rejected, there was no occasion for Respondent No.4 to submit any further explanation and its response of 23 January 2018 was thus

redundant. Besides, the main ground on which the proposal was rejected by Respondent No.2 and which ground was pressed before us even by the learned AGP, was that there was a delayed submission of the proposal. The documents annexed to the petition indicate that the proposal was originally submitted in case of the Petitioner on 21 June 2005. The relevant document produced with the petition shows a receipt endorsed by a clerk from the office of the Deputy Director on the covering letter of the proposal. The Petitioner has particularly referred to submission of proposal on 21 June 2005 in Paragraph 2(e) of this petition. The Respondent-State has not dealt with these particular averments in its reply. If the Petitioner's proposal was submitted on 21 June 2005, the Petitioner's case would be more or less on the same footing as the case of Krushnath D. Powar, who was the fellow employee appointed along with the Petitioner in the two sanctioned posts available with Respondent No.4.

3. The forgoing narration makes it clear that Respondent No.2 ought to have considered the communication of Respondent No.4 of 23 January 2018 and taken a final decision after considering the same.

4. Rule is accordingly made absolute and the Petition is partly allowed by quashing and setting aside the impugned order dated 22 December 2017 and remitting proposal No.315 of 2017 dated 20 November 2017 submitted by Respondent No.4 - Vidyapeeth High School and Junior College to Respondent No.2 for a fresh consideration in accordance with law after taking into account the communication of Respondent No.4 dated 23 November 2018.

5. All rights and contentions of both parties on merits are kept open.

(SURENDRA P. TAVADE, J)

(S.C. GUPTE, J.)