

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

Amk

WRIT PETITION NO. 1878 OF 2020

Tanvi Vallabh Gaitonde .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

**WITH
WRIT PETITION NO. 1873 OF 2020**

Seema Nayan Patil .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. Prashant Bhavake for the Petitioners in both the Petitions.
Mr. Vikas M. NMali, AGP for the Respondents-State.
Mr. Mahendra M. Agvekar a/w. Mr. Rajesh Gehani and Ms. Shraddha Chavan for Respondent Nos.6 & 7 in both the Petitions.

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

P.C. :

1. Rule. Rule made returnable forthwith.
2. Learned AGP waives service for respondent nos.1 to 5 and learned counsel waives service for respondent nos.6 and 7. By consent of the parties heard finally.
3. This petition filed under Article 226 of the Constitution of India seeks quashing and setting aside the impugned order dated 04.06.2019 passed by the Education Inspector thereby refusing to grant proposal submitted by respondent nos.6 and 7 seeking individual approval to the appointment of the petitioner in the post of Shikshan Sevak at respondent no.7 School w.e.f. 19.08.2014 and further direction to grant individual approval to the appointment of the petitioner.

4. Mr. Bhavake, learned counsel for the petitioner invited our attention to the impugned order passed by the Education Inspector on 04.06.2019 and would submit that the proposal is rejected on the ground that all the requisite documents were not submitted along with the proposal. He submits that all these documents whether they were required to be submitted or not by the management are already forming part of the petition. Since there is no discrepancy pointed out by the Education Inspector in the proposal submitted by the management as sought to be reflected in the impugned order directly, the management did not furnish all the requisite documents. If such list would have been provided by the Education Inspector before passing the impugned order to the management, the management would have furnished the requisite documents and would have clarified the queries, if any, that would have been raised by the Education Inspector before passing the impugned order.

5. It is submitted that out of four reasons recorded in the impugned order, the reason at serial no.2 is totally untenable. He submits that in any event whatever documents are necessary for considering the proposal of the management to appoint the petitioner are concerned, the management would supply it within two weeks from today. If, according to the petitioner or the management any of the requirement mentioned therein may not be tenable, the management shall indicate the reasons as to why the reasons made in the said order are not tenable.

6. In view of the fact that the Education Inspector did not point out the deficiency, if any, in the proposal submitted by the management and passed the order directly, we quash and set aside the order dated 04.06.2019 passed by the Education Inspector and treat the said order as notice to produce the documents and as an

opportunity to the management to clear the alleged deficiencies in the proposal submitted by the management. The management shall produce the requisite documents, which according to the management are required, within two weeks from today. Copy of the say of the management along with documents shall be furnished to the petitioner by the management simultaneously. The Education Inspector shall consider the proposal in accordance with law within four weeks from the date of receipt of such documents.

7. It is made clear that the Education Inspector shall not demand any other documents which other than documents mentioned in the order dated 04.06.2019 which order is to be considered as a notice and not an order of rejecting the proposal. It is made clear that the petitioner as well as the management are permitted to appear before the Education Inspector who will render personal hearing before passing the order in compliance with the order passed by this Court. It is made clear that the Education Inspector shall not be influenced by the observations made and conclusion made in the impugned order dated 04.06.2019 and pass an order on its own merits after considering the documents produced by the management and after considering the oral and written submission that would be advanced by the petitioner as well as the management. Copy of the order, that would be passed, shall be conveyed to the management and the petitioner by the Education Inspector within one week after passing of such order.

8. Parties aggrieved are at liberty to file appropriate proceedings. If the order is adverse against the petitioner, the management shall not take any coercive steps against the petitioner for four weeks from the date of communication of that order.

9. It is made clear that if the approval is granted by the Education

Inspector on the proposal made by the management for the appointment of the petitioner as per said proposal, the Education Inspector shall include the name of the petitioner in the Salarth ID within three weeks thereafter and shall release the grant and salary and other benefits as would be permitted for the said post within four weeks thereafter.

10. Rule is made absolute in the above terms. No order as to costs.

11. Parties to act on the authenticated copy of this order.

[ABHAY AHUJA, J.]

[R. D. DHANUKA, J.]

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