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

WRIT PETITION NO. 10496 OF 2019

AMOL SHIRISHKUMAR MESTRY ..PETITIONER
VS.
THE STATE OF MAHARASHTRA & ORS. ..RESPONDENTS

**WITH
WRIT PETITION NO. 10497 OF 2019**

JYOTI BHIMSEN ACHAREKAR ..PETITIONER
VS.
THE STATE OF MAHARASHTRA & ORS. ..RESPONDENTS

**WITH
WRIT PETITION NO. 10498 OF 2019**

MAHADEO SHIVAJI PATIL .. PETITIONER
VS.
THE STATE OF MAHARASHTRA & ORS. ..RESPONDENTS

Mr. N.V. Bandiwadekar i/b. Mrs. Ash.N. Bandiwadekar for
petitioners.

Mr. S.H. Kankal, AGP for State in WP/10496/2019.

Mr. S.D. Rayrikar, AGP for State in WP/10497/2019.

Mr. P.P. Pujari, AGP in WP/10498/2019.

CORAM : M.S.KARNIK, J.

DATE : MARCH 4, 2021

P.C.:-

Heard learned counsel for the petitioners and learned AGP.

2. The order impugned in this Petition is passed by the respondent No.2 - Education Officer (Secondary), Zilla Parishad, Ratnagiri dated 15/6/2019 rejecting the proposal made by the respondent No.4 for approval to the appointment of the petitioners as the Assistant Teachers. The petitioners were appointed in 2014 on unaided post as the Assistant Teachers. The petitioners were appointed pursuant to the advertisement dated 3/6/2014. As there was ban on recruitment of the Assistant teachers in private school, the proposal for approval was not submitted. Thereafter, pursuant to the order passed by this Court, Government Resolution came to be issued on 16/8/2012 whereupon the Managements were permitted to submit proposal for approval.

3. Accordingly the proposal was submitted by the respondent No.4 for approval of the appointments of the petitioners in unaided posts on 20/8/2018. The same came to be rejected by the impugned order dated 15/6/2019 on as many as 17 grounds.

4. There is no provision for granting a hearing by the Education Officer before a proposal is made by the Management is approved or otherwise. Considering number of grounds listed in the impugned order which formed the basis of the impugned order and considering the explanation to these grounds set out in the Petition and materials on record, in my opinion, it would be appropriate if an opportunity is given to the respondent - Management to explain the deficiencies listed in the impugned order.

5. Learned AGP supported the impugned order and by inviting my attention to the impugned order he submits that for all the reasons mentioned in the impugned order, the Petition deserves to be dismissed.

6. So far as first ground of rejection is concerned, it is mentioned that for the year 2014-2015 in the staff schedule the vacant unaided posts are not mentioned. My attention is invited to page 41 which is staff schedule for the Academic Year 2014-2015 which indicates that there are eight sanctioned posts. However, it is the submission of learned counsel for the petitioners that the said schedule never indicates number of vacant posts. According to the petitioners, there were vacant unaided posts.

7. So far as second reason is concerned, it is stated that the proposal should have been submitted within 15 days. However, on 15/6/2014 when the petitioners were appointed, there was ban on recruitment. It is only after the Government Resolution was issued on 16/8/2012 lifting the ban that the proposal was submitted.

8. As regards the third ground for rejection it is stated that there was no advertisement issued. From the paper-book it is seen there is an advertisement which is at page 25.

9. The fourth reason for rejection is that the permission of the Government was not obtained for issuing an advertisement in terms of the Government Resolution dated 6/2/2012. Learned counsel for the petitioners relied upon the communication dated 21/2/2018 which is annexed at page 68 which mentions that there is no need for obtaining prior permission in respect of the appointments in unaided posts.

10. I have not referred to rest of the grounds as even from these grounds which have been discussed herein before it is clearly seen that the order suffers from a complete non application of mind and the issue of approval needs to be reconsidered.

11. Considering the number of deficiencies mentioned in the impugned order, the petitioners as well as the respondent Nos. 3 and 4 may submit a detailed explanation along with their response to each of the grounds mentioned in the impugned order dated 15/6/2019.

12. The Education Officer after considering the explanation and the response of the parties to reconsider the issue of grant of approval and pass a fresh order. The impugned order is accordingly set aside.

13. The petitioners as well as the respondent Nos. 3 and 4 to submit a detailed explanation/response to each of the grounds within a period of four weeks from today.

14. The Education Officer upon considering the explanation/response thereafter to pass appropriate orders within a period of four weeks from the receipt of the explanation / response.

15. The Writ Petitions are disposed of accordingly.

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(M.S.KARNIK, J.)