

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

WRIT PETITION NO.3407 OF 2019

Deepak Balaso Chougule

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr.Chetan G. Patil a/w Mr.M.G. Bagkar for the petitioner.

Mr.Vikas M. Mali, AGP for the respondent nos.1 & 2-State.

**CORAM : R.D. DHANUKA
MADHAV JAMDAR, JJ.**

DATE : 7th JANUARY 2021

P.C.:-

. It is the case of the petitioner that he was appointed as Librarian on vacant post in the respondent no.4-School after issuance of advertisement and after conducting interviews. It is the case of the petitioner that after following the necessary procedure, he was appointed on the post of Librarian on 1st August 2018. Thereafter, the respondent no.4-School submitted proposal to the respondent no.2 – Educational Officer (Secondary) Zilla Parishad, Kolhapur for approval. The respondent no.2 by an order dated 13th November 2018 refused to grant approval to the appointment of the petitioner. The said order dated 13th November 2018 is impugned in the present petition.

2. The order dated 13th November 2018 which is at Exhibit ‘E’ to the petition passed by the respondent no.2 refers to the Government Resolutions dated 10th June 2010, 12th February 2015, 23rd October 2013 and 1st September 2018.

3. It is the contention of Shri. Patil, learned counsel for the

petitioner that as the appointment of the petitioner is dated 1st August 2018, the Government Resolution dated 1st September 2018 is not at all applicable to his appointment. He further submits that as far as the Government Resolutions dated 10th June 2010, 12th February 2015 and 23rd October 2013 are concerned, the said Government Resolutions are not applicable to the petitioner's case as the respondent no.4-School is the minority institution. It is his further submission that Government Resolution dated 13th July 2016 regarding the manner of appointment in minority institution is applicable to his case and the same supports his case.

4. On the other hand, Shri. Mali, learned AGP submits that there is one post for Full Time Librarian in the respondent no.4-School and two persons have applied for the said post - the petitioner and Smt.Snehal Ingale. He states that said Smt.Snehal Ingale who is working as Part Time Librarian is claiming that she should be absorbed in Full Time vacancy existed in the respondent no.4-School.

5. A bare perusal of the impugned order dated 13th November 2018 clearly shows that the said reason given in the affidavit-in-reply regarding the claim of two persons for one post and that the said Smt.Snehal Ingale who was working as Part Time Librarian also applied for upgradation is not at all reflected in the impugned order.

6. Apart from that, the contention of learned counsel for the petitioner that the Government Resolutions dated 10th June 2010, 12th February 2015 and 23rd October 2013 are not applicable to the respondent no.3-Trust and the respondent no.4-School as they are minority

institutions is also not considered. It is further apparent that the Government Resolution dated 13th July 2016 on which the learned advocate of the petitioner has strongly relied and which is applicable to the minority institutes and his appointment is in accordance with the said Government Resolution dated 13th July 2016 is also not considered while passing the impugned order dated 13th November 2018.

7. Therefore, we quash and set aside the impugned order dated 13th November 2018 and remand the proposal of the respondent no.4-School seeking approval to the appointment of the petitioner to the post of Librarian to the respondent no.2. The respondent no.2 to decide the said proposal after hearing the petitioner as well as the respondent nos.3 and 4.

8. The petitioner as well as the respondent nos.3 and 4 are at liberty to file written submissions in addition to the proposal already submitted. The petitioner agrees to file written submission within one week from today and shall appear before the respondent no.2 on 15th January 2021. The respondent no.2 to take decision within four weeks from the date of appearance of the petitioner as well as the respondent nos.3 and 4. The respondent no.2 to decide the proposal for approval without influenced by the observations and conclusions in the impugned order dated 13th November 2018 which is set aside by this Court. It is clarified that this Court has not expressed any opinion on the merits.

9. Writ petition is disposed of in aforesaid terms. No order as to costs.

MADHAV JAMDAR, J.

R.D. DHANUKA, J.