Smita Gonsalves
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Date: 2021.02.17 16:00:29 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14471 OF 2018

Shaikh Arshiyabano Kamal Pasha .. Petitioner
v/s.
State of Maharashtra & Ors. .. Respondents

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Mr. Akhil Kupade, i/b. Manoj Harit & Co., for the Petitioner.

Mr. N.C. Walimbe, AGP, for Respondent Nos. 1 to 3.

Mr. Anand S. Kulkarni, for Resplendent No.4.

Mr. Vijay Killedar, for Respondent No.5.

Mr. Vaibhav V. Ugale, a/w. Mr. Vikas B. Somawanshi, for Respondent Nos. 6 And 7.

....

CORAM: S.C. GUPTE &
SURENDRA P. TAVADE, JJ.

DATE : 10 FEBRUARY, 2021.

P.C:-

. The subject matter of the present petition concerns approval to the appointment of the Petitioner as Shikshan Sevak with effect from 1 June 2011 and his further appointment as Assistant Teacher with effect from 1 June 2014 after completion of probationary period in Respondent No.7 School. In response, it is submitted by learned Counsel for Respondent No.5-Administrative Officer, Municipal Primary School Board, Solapur, that the recognition of Respondent No.7 School was originally

withdrawn and, as a result, both teachers as well as students left the school. Subsequently, on an appeal of the management, the derecognition order was withdrawn and repatriation of both students and teachers was allowed. Learned Counsel submits that after this order was passed, without communicating to Respondent No.5 about the repatriation efforts and their result, the present Petitioner was appointed in the post of Shikshan Sevak and subsequently in the post of Assistant Teacher. Learned Counsel submits that if a proper application in that behalf is made to his client by the management, the same shall be considered on merits. Learned Counsel for Respondent No.4-Education Officer (Primary) submits that the Petitioner's appointment was not made by following a proper procedure for appointment and there was no permission obtained from the Education Officer. He submits that there was no advertisement issued inviting applications for appointment before the appointment was made. That is really a matter for Respondent No.5 to decide.

2. Accordingly, we dispose of the present petition in terms of the following order :-

(i) Respondent Nos. 6 and 7 shall prepare and submit a proposal for approval to the Petitioner's appointment originally as Shikshan Sevak and, thereafter, as Assistant Teacher, to Respondent No.5. Respondent No.5 shall process this application in accordance with law, including the order passed by Deputy Director Education, Pune Division on 20 December 2010 in respect of Respondent No.7 School;

(ii) Respondent Nos. 6 and 7 shall satisfy the authorities that the appointment of the Petitioner was made by following proper procedure and not through a backdoor method;

(iii) All rights and contentions of the parties on merits in that behalf are kept open;

(iv) Respondent No.5 shall process the management's proposal and take an appropriate decision on it within a period of four weeks of submission of the proposal.

(SURENDRA P. TAVADE, J.) (S.C. GUPTE, J.)