

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2669 OF 2022

Shital Pandit Bhosale	]	Petitioner
Vs.		
The State of Maharashtra through	]	
Principal Secretary Department of	]	
School Education and others.	]	Respondents

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Mr. Swaraj S. Jadhav i/b Mr. Ashish Pawar, for Petitioner.

Mr. S.B. Kalel, A.G.P, for Respondents No.1 to 3-State.

Mr. Gaurav Nankar, for Respondents No.4 and 5.

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CORAM : SUNIL B. SHUKRE AND
G.A. SANAP, JJ.

DATE : 10th MARCH, 2022.

P.C.

1. Heard Mr. Jadhav, learned Counsel for the petitioner, Mr. Kalel, learned A.G.P for respondents No.1 to 3 - State, who appears by waiving notice and Mr. Nankar, learned Counsel for respondents No.4 and 5.

2. Considering the small compass of the issue involved in this petition and also the fact that issue can be resolved by issuing

appropriate directions to respondents No.1 to 3, Rule. Rule is made returnable forthwith. Heard finally by consent of learned Counsel for the parties.

3. It is seen that appointment of the petitioner as “Junior Clerk” has been made on a clear vacancy and sanctioned post. Such appointment has been made with effect from 20th June, 2017. It is obvious that to such an appointment of the petitioner, Government Resolution dated 4th May, 2020 would have no application and, therefore, recruitment ban temporarily imposed under this Government Resolution would not affect the appointment of the petitioner. However, by the impugned order, the ban imposed by subsequent Government Resolution has been made a ground for not taking any decision to consider the proposal of respondents No.4 ad 5 seeking approval to the appointment of the petitioner. The ground is not tenable in law as Government Resolution in question has no application to the appointment of the petitioner.

4. In the result, we find that the petition deserves to be allowed. The petition is allowed. The impugned order is hereby quashed and set aside. Matter is remanded to respondent No.3 for

fresh decision in accordance with law at the earliest and in any case, within eight weeks from the date of receipt of copy of the order.

5. We further direct respondents No.3 to decide the proposal forwarded by respondents No.4 and 5 on its own merits without taking any recourse to Government Resolution dated 4th May, 2020.

6. Rule is made absolute in the above terms. No costs.

[G.A. SANAP, J.]

[SUNIL B. SHUKRE, J.]