

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

WRIT PETITION NO. 6146 OF 2021

Smt. Parvati Shivanand Hiremath and Ors. ... Petitioners

Versus

State of Maharashtra and Ors. ... Respondents

Ms. Pranit P Hingmire, for the Petitioners.

Mrs. S. S. Bhende, AGP, for the State.

CORAM : A. S. CHANDURKAR AND G.A. SANAP, J.J.

DATE : 18th APRIL, 2022.

P.C. :

Rule.

2 Rule made returnable forthwith.

3 Heard learned Counsel for the parties.

4 The Petitioner came to be appointed on compassionate basis as part time Librarian on 1st January, 2015. The proposal seeking approval of Petitioner's appointment was submitted on 13th January, 2015 which was followed by various reminders. On 5th April, 2021 the said proposal has been rejected by the Education Officer(Secondary) for the reason that the revised staffing pattern has been approved in terms

of Government Resolution dated 28th January, 2019. Being aggrieved, the said Order is challenged in this Writ Petition.

5 Learned Counsel for the Petitioner submits that since the Petitioner was appointed on 1st January, 2015, the Education Officer (Secondary) was not justified in relying upon the subsequent Government Resolution dated 28th January, 2019 as a reason for rejecting the approval. It is submitted that this question has been considered in **Writ Petition No. 7912 of 2021 (Hanuman B. Waghmare Vs. The State of Maharashtra and Ors.)** decided on 21st December, 2021. The position as prevailing on the date when the Petitioner was appointed was required to be taken into consideration. Hence, the impugned Order is liable to be set aside.

6 Learned AGP has relied upon Affidavit filed by Respondent No.2 and has opposed the Writ Petition.

7 It is an undisputed fact that the Petitioner was appointed on the post of part time Librarian from 1st January, 2015. The position as prevailing on that day ought to be taken into consideration and not any subsequent Government Resolution which is the Government Resolution dated 28th January, 2019 in the present case. This aspect has been considered in the case of **Hanuman B. Waghmare** (Supra). On

this count, it is found that the impugned Communication dated 5th April, 2021 is contrary to law.

8 Hence, for aforesaid reasons, the Communication dated 5th April, 2021 is set aside. The Education Officer (Secondary), Zilla Parishad, Solapur shall re-consider the proposal seeking approval to the Petitioner's appointment as part time Librarian in the light of observations made herein-above. The aspect whether strength of students from the academic year 2014-2015 exceeds 500 would also be taken into consideration while considering the proposal. The decision accordingly shall be taken within a period of two months from the production of this Order. The Order passed be communicated to the Petitioner as well as Management.

9 Rule is made absolute in the aforesaid terms. No costs.

[G.A. SANAP, J.]

[A. S. CHANDURKAR, J.]