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

WRIT PETITION NO. 4092 OF 2018

Suresh Vyankat Sawant

... Petitioner

V/s.

The State of Maharashtra and Ors.

... Respondents

Mr. Narendra V. Bandiwadekar a/w. Sagar A. Mane for the Petitioner

Ms. S.S. Bhende, AGP for the Respondent Nos. 1 and 2

Mr. Milind Deshmukh for the Respondent No.3

***CORAM : SUNIL B. SHUKRE &
G.A. SANAP, JJ.***

DATE : 4 APRIL 2022

P.C. :-

Heard the learned Counsel for the parties.

2. Rule. Rule made returnable forthwith. Taken up for final disposal by consent of the learned Counsel for the parties.

3. The Petitioner claimed to be appointed as assistant teacher in junior college of Respondent No.3 on full time basis, after the first round of litigation has not been favourably considered by

the Respondent No.3, on the ground that the Petitioner was not found to be eligible for such appointment as per paragraph 3 of the Government Circular dated 31 January 2001 and as per paragraph 9 of the Government Circular dated 10 June 2005. Based on such a negative recommendation, the Respondent No.2 also rejected the proposal for giving approval to the said appointment of the Petitioner on full time basis.

4. However, after the impugned decisions were rendered, there were subsequent developments. They are noted in the affidavit-in-reply of Respondent No.3. In paragraph 3, it is stated that when the proposal was sent by the Respondent No.3 to Respondent No.2, the services rendered by the Petitioner in the years 2014-2015 and 2015-2016 had received no approval from Respondent No.2 and therefore, it was then stated that the Petitioner was not eligible for appointment as assistant teacher on full time basis as per paragraph 9 of the Government Circular dated 10 June 2005. The Respondent No.3 has further stated that after the said proposal with negative recommendation was sent to the Respondent No.2, the Government granted approval to the appointment of the Petitioner for the years 2014-2015 and 2015-2016. It is also submitted by the Respondent No.3 that the Respondent No.2 did not consider the subsequent development and the result was passing of an erroneous order by the Respondent No.2.

5. In view of the subsequent development, as noted in the affidavit-in-reply filed by the Respondent No.3, about which there is no dispute, we are of the view that purpose of this Petition would be served if the Respondent No.3 submits a fresh proposal to the Respondent No.2 giving all the necessary details. If such fresh proposal is submitted, the Respondent No.2 would be in a better position to apply his mind to the facts of the case and arrive at appropriate decision while ignoring the earlier decision given by him.

6. Accordingly, we direct the Respondent No.3 to send a fresh proposal to Respondent No.2 seeking approval to the appointment of the Petitioner as assistant teacher on full time basis within a period of two weeks from the date of receipt of the order and if such proposal is submitted by the Respondent No.3 to Respondent No.2, it shall be decided by the Respondent No.2 in accordance with law, keeping in view the subsequent development, as early as possible and in any case, within eight weeks from the date of receipt of the proposal. In doing so, we further direct that the Respondent No.2 shall ignore the order dated 26 July 2017 earlier passed by him.

7. In case the approval is granted, the Petitioner shall be allotted Shalath ID and honorarium/salary together with admissible

arrears shall be paid to the Petitioner by taking necessary steps, within a period of further eight weeks.

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

G.A. SANAP, J.

SUNIL B. SHUKRE, J.