

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

WRIT PETITION NO. 3140 OF 2022

Parmeshwar Ambadas Chopde

....PETITIONER

V/S

The State Of Maharashtra & Ors

....RESPONDENTS

Mr. Satyajeet A. Rajeshirke for the petitioner.

Smt. P. J. Gawhane, AGP for the respondent nos. 1 to 3

Mr. Jyotiram S. Yadav for the respondent nos. 4 to 5

**CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ**

DATED : 23rd DECEMBER, 2022

P.C.:

1. Heard.
2. Against the termination of the petitioner the School Tribunal, Pune allowed the Appeal No. 16 of 2018 with following orders:

"1. The impugned order of termination of Appellant dated 14/12/2016 is hereby declared against the provisions of law.

2. The respondent no. 1 & 2 are hereby directed to pay the compensation to the appellant to the extent of 6 month's salary as per the provisions under section 11 of the MEPS Act, 1977 within a period of one month from the date of judgment and order."
3. Since the Tribunal has allowed the appeal of the petitioner partly, in WP/11695/2019 this Court directed that the issue of approval has to be looked into and as such, adjourned the hearing

of the said petition.

4. In this background, relying on the judgment of this Court in the matter of ***Smt. Munoli Rajashri Karabasapp vs. State of Maharashtra thru. Secretary & Ors.*** in WP/8587/2016 with connected matters decided on 10/07/20217, Mr. Rajeshirke learned counsel for the petitioner would urge that the ban on the appointment, even if was existing at the time the petitioner was appointed as Shikshan Sevak, the said ban is not applicable to the subject of English. As such, he would urge that the order impugned is passed by the Education Officer on 01/02/2017 needs consideration in the light of the judgment of ***Smt. Munoli (supra)***.

5. The prayer is opposed by learned AGP appearing for the respondent nos. 1 to 3 on the ground that the petition is preferred at delayed stage. It is further claimed that the Education Officer, Secondary has considered all the facets of the matter and passed the order impugned.

6. Learned counsel for the respondent-management would urge that the order of the Tribunal still holds the field as the same is not stayed by this Court in writ petition including the extent to which the claim of the petitioner was rejected by the Tribunal. According

to him, the fact that the issue as regards the ban on the fresh recruitment is dealt with in WP/8587/2016 is a the matter of record.

7. We have appreciated the said submissions.

8. The fact remains that the judgment in the matter of **Smt. Munoli (supra)** was subsequent in point of time and the order impugned dated 01/02/2017. As such, whether ban on recruitment in the subject of English is permissible, is not an issue which was available for the consideration before the Education Officer particularly in the backdrop of law laid down in the aforesaid judgment.

9. Apart from above, this Court while dealing with the petition of the petitioner has adjourned the hearing *sine die* on the ground that the issue of grant of approval is required to be addressed first.

10. In this background, in our opinion case for consideration is made out. The order impugned dated 01/02/2017 is hereby quashed and set aside.

11. We direct the respondent-Education Officer before whom the petitioner shall appear on 10/01/2023 to deal with the proposal of the petitioner for grant of approval for appointment to the post of

Shikshan Sevak for the subject of English after having regard to the judgment of this Court in the matter of ***Smt. Munoli (supra)***.

12. We direct the Education Officer to pass appropriate order in the matter within a period of ten weeks from the date of appearing of the petitioner.

13. The petition stands allowed in the above terms.

(SHARMILA U. DESHMUKH, J) (NITIN W. SAMBRE, J.)

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