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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11104 OF 2016**

Sunanda Ashokkumar Deshmukh @	]	
Sunanda Raghunath Parkhi	]	
Aged: --- years, Occupation : Service,	]	
Residing at Survey No. 135/7,	]	
Gurudwara Road, Near Akurdi Railway	]	
Station, Chinchwad, Pune.	]	Petitioner

Vs.

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| 1) Maharshi Karve Stree Shikshan Sanstha |] | |
| Through the Secretary, Having Office at: |] | |
| Karevenagar, Pune – 411 052 |] | |
| | | |
| 2) Maharshi Karve Stree Sikshan Santha's |] | |
| D.Ed. College of Education, Through its |] | |
| Principal, Having office at : Karvenagar, |] | |
| Pune – 411 052. |] | |
| | | |
| 3) Education Officer (Secondary) Zilla |] | |
| Parishad, Pune. |] | |
| | | |
| 4) The Deputy Director of Education |] | |
| 17, Dr. Ambedkar Road, Pune – 411 001. |] | |

5) The State of Maharashtra,]
Through the Secondary, Having Office at:]
Mantralaya, Mumbai – 32.] Respondents

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Mr. S.P. Sarnath, for Petitioner.

Mr. S.R. Waghmare, for Respondents No.1 and 2.

Mrs. S.S. Bhende, A.G.P, for Respondents No.4 and 5 – State.

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

DATE : 16th MARCH, 2022.

JUDGMENT: [Per S.B. Shukre, J.]

1. Heard.
2. Rule. Rule is made returnable forthwith. Heard finally by consent of learned Counsel for the parties.
3. The petitioner is appointed as “Assistant Teacher” on 28th March, 2000 and as such appointment of the petitioner, according to the Management was made on a clear and vacant post which had arisen on account of termination of service of one Gulab Tatya Waghmode, the former Assistant teacher. His such appointment was granted approval by the Deputy Director Education, subject to result of the appeal filed by Gulab Tatya Waghmode before the School Tribunal. While The School Tribunal allowed the appeal directing reinstatement in service of Gulab Tata Waghmode, this

Court in Writ Petition No.3149 of 2003 filed by the Management challenging the order of the School Tribunal, set aside the order of the School Tribunal and thus confirmed the termination of service of Gulab Tatya Waghmode made by the Management.

4. The above referred facts are not in dispute. After termination of Gulab Tatya Waghmode received the seal of approval of High Court, the Management sent another proposal to respondent No.4 seeking grant of permanent approval. This proposal was sent on 1st January, 2018, however, respondent No.4 has not yet decided the proposal. In fact, there was no reason for respondent No.4 to have kept pending proposal as termination of Gulab Tatya Waghmode made by the management was confirmed by the High Court by its judgment dated 27th September, 2017 rendered in Writ Petition No.3149 of 2003. After all, the Deputy Director had already granted conditional approval to the appointment of the petitioner and the only condition was that the approval was being granted subject to final result of the appeal pending before the School Tribunal. Now, the appeal has been decided and the order of termination of Gulab Tatya Waghmode has attained finality and this has resulted in endorsing the stand of Management that appointment of the petitioner was made on clear and vacant post.

5. In our view, the petition deserves to be allowed. Hence, the following order.

: ORDER :

- (a) The petition is allowed in terms of prayer clause (b);
- (b) Arrears of salary and other service benefits, if any, be released to the petitioner, as per rules, within four weeks from the date of receipt of copy of this judgment;
- (c) Rule is made absolute in above terms;
- (d) No costs.

[G.A. SANAP, J.]

[SUNIL B. SHUKRE, J.]