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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2421 OF 2022

Smt. Snehal Vidyasagar Risbud .. Petitioner
v/s.
The Chairman of Progressive Education
Society Through its Chairman And Ors. .. Respondents

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Mr. Nilesh M. Wable, for the Petitioner.

Mr. Rakesh P. Saroj, for Respondent Nos. 1 to 4.

Mr. N.K. Rajpurohit, AGP, for State.

....

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

DATE : 7 MARCH 2022

P.C:-

Heard Mr. Wable, learned Counsel for the Petitioner, Mr. Saroj, learned Counsel for Respondent Nos. 1 to 4. and Mr. Rajpurohit, AGP, for State.

2. By this petition, the Petitioner is seeking various directions regarding providing of continuity in service with consequential benefits to the Petitioner with effect from June 1997 as per the consent terms dated 4 September 2006 and further providing the Petitioner

difference in payment of salary to her with effect from 1997 till her retirement till December 2017 along with interest and also pensionary benefits to the Petitioner considering the appointment of the Petitioner as Shikshan Sevak and later on as Assistant Teacher with effect from June 1997 and onwards.

3. According to learned Counsel for the Petitioner, the Petitioner is entitled to the reliefs in terms of the consent terms dated 4 September 2006, on the basis of which the Letters Patent Appeal No.197 of 2005, filed against the judgment rendered in Writ Petition No.1910 of 2005, was disposed of.

4. There is no doubt about the fact that as per the consent terms, the Petitioner is entitled to continuity of service with effect from June 1997 with all consequential benefits. However, by this very consent terms, a direction was sought. The Division Bench of this Court directed Education Officer, Zilla Parishad, Pune to decide the proposal of the School Management regarding granting of approval to the appointment of the Petitioner, firstly, as Shikshan Sevak and, subsequently, as Assistant Teacher in accordance with law.

5. The Letters Patent Appeal was disposed of by the Division Bench as per the order dated 31 January 2008 in the following terms:

“Consent term signed by the appellant and Respondent No.1 and their Advocates tendered, taken on record and marked ‘X’. Letters Patent Appeal disposed of in terms of Mark ‘X’. Civil Application 1 of 2008 is disposed of.”

6. Thus, effect of such disposal of the Letters Patent Appeal was that Education Officer, Zilla Parishad, Pune was to decide the issue of grant of approval to the appointment of the Petitioner in accordance with law. Although, it was expected of the Education Officer to also have taken into account the consent terms agreed between the parties, particularly the term relating to agreement between the parties for granting of benefit of continuity of service with effect from June 1997 to the Petitioner. However, unfortunately, the Education Officer, Zilla Parishad, Pune ignored these consent terms and granted approval to the Petitioner, initially as Shikshan Sevak with effect from 1 November 2006 and later on as Assistant Teacher with effect from 1 November 2009. The Petitioner could have challenged both these orders but did not. The Petitioner had filed a writ petition, being Writ Petition No.8111 of 2019, simply asking for issuance of direction to the Management to forward the pension papers to the Education Department and issuance of further direction to the Education Officer and Deputy Director of Education to release the pension of the Petitioner, without questioning the approval orders referred to earlier. It was for this reason that the Co-ordinate Division Bench of this Court, while disposing of the said petition, granted leave

to the Petitioner to withdraw the petition with liberty to challenge the order of approvals granted by the Education Officer, which was not from the date of initial appointment. Even then, the Petitioner did not question the legality or otherwise of the said approval orders.

7. Now the Petitioner has filed this petition once again with almost similar reliefs as in the earlier petition, being Writ Petition No.8111 of 2019, although with different words. In this petition as well, the Petitioner has not questioned the legality or otherwise of the aforestated approval orders of the Education Officer. Such petition is obviously not maintainable. The petition is, therefore, summarily dismissed as not maintainable. Liberty, however, is granted to the Petitioner to question the approval order, keeping all questions open.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)