

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
Writ Petition No.893 of 2022**

Rajashree Purushottam Kaslikar,
Aged 50 years, Occupation – Service
(Head Mistress),
Shri Shivaji High School,
Wanoja, Washim, District Washim.

... Petitioner

Versus

1. The Deputy Director of Education,
Amravati Division,
Amravati 444 602.
2. The Education Officer (Secondary),
Zilla Parishad, Washim 444 505.
3. The President/Secretary,
Shri Shivaji Education Society,
Amravati, District Amravati-444 603,
Office at in front of Rathi School &
Vimalabai Auditorium, Amravati.

... Respondents

Shri Y.P. Kaslikar, Advocate for Petitioner.

Shri N.S. Rao, Assistant Government Pleader for
Respondent Nos.1 and 2.

Shri Abhay Sambre, Advocate for Respondent No.3.

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

DATE : 26th SEPTEMBER, 2022

ORAL JUDGMENT (PER SUNIL B. SHUKRE, J.) :

1. Rule. Rule is made returnable forthwith. Heard finally by
consent of the learned counsel for the parties.

2. The approval to the appointment of the petitioner as Head Mistress of Shri Shivaji High School, Wanoja, District Washim, run by the respondent No.3-Society, has been rejected by the respondent No.2- Education Officer (Secondary), Zilla Parishad, Washim, by order dated 8-9-2021 only on the ground that the no-objection by the teachers who were senior to the petitioner was not specific in nature, in the sense that the name of the petitioner was not stated in the letter of relinquishment of claim given by the senior teachers and that the relinquishment letter was required to be given within fifteen days of the arriving of the vacancy.

3. On perusal of the reply of the respondent No.3-Society and also the other documents placed on record and even from the facts stated in the impugned order dated 8-9-2021, it is seen that all the requirements have been fulfilled by the petitioner and as well as the respondent No.3-Society. The relinquishment of claim made by the other senior teachers was more specific, in the sense that it was in relation to the vacancy which had arisen in the year 2019. It is not in dispute that this vacancy was filled up in the year 2019 when the petitioner was appointed as Head Mistress of the School. The requirement of sub-rule (3) of Rule 3 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 is that whenever a teacher fails to submit his willingness

for appointment to the post within a period of fifteen days from the date of receipt of the communication, it is presumed that he has relinquished his claim for appointment to the post. This is what happened in the present case. Therefore, we find that the impugned order rejecting the approval to the appointment to the petitioner as Head Mistress of the School run by the respondent No.3- Society is illegal.

4. The petition is, therefore, allowed in terms of prayer clause (1), which reads as under :

“1. It is, therefore, humbly prayed that, the Hon’ble Court may pass appropriate order for quashing and setting aside the impugned order issued by the respondent No.2 Education Officer (Secondary) Washim dated 08-09-2021 (Annexed as Annexure P-6) by holding it unlawful, illegal and against the provisions of law.”

5. We direct the respondent No.2- Education Officer to grant approval to the appointment of the petitioner as Head Mistress of the School run by the respondent No.3- Society within a period of two weeks from the date of receipt of the order.

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

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

Lanjewar