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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10018 OF 2022**

- | | | |
|---------------------------------------|---|-------------------|
| 1] Yashwant Shikshan Sanstha, Bhom, |] | |
| Tal Chiplun, District : Ratnagiri, |] | |
| Through its President/Secretary |] | |
| |] | |
| 2] Mahadevrao Shirke Secondary & |] | |
| Higher Secondary School, Bhom, |] | |
| Tal. Chiplun, District: Ratnagiri, |] | |
| Through President of School Committe |] | |
| |] | |
| 3] Smt. Arya Abhay Chavan, |] | |
| (Nee: Swapnali Sitaram Kadam), |] | |
| (New Name: Smt. Gauri Girish Chavan), |] | |
| Age: 36 years, Occupation: Service, |] | |
| R/o. A/p. Bhom, Khalachiwadi, |] | |
| Taluka: Chiplun, District : Ratnagiri |] | Petitioners. |

V/s

- | | | |
|--|---|--|
| 1] The State of Maharashtra, |] | |
| Through the Secretary, |] | |
| School Education & Sports Department, |] | |
| Mantralaya, Mumbai – 400 032. |] | |
| |] | |
| 2] The Commissioner of Education |] | |
| School Education Department, |] | |
| Maharashtra State, Pune. |] | |
| |] | |
| 3] The Director of Education, |] | |
| (Secondary and Higher Secondary), |] | |
| Maharashtra State, Pune-1 |] | |
| |] | |
| 4] The Deputy Director of Education |] | |
| Kolhapur Region, Kolhapur, |] | |
| Having office at Hatti Mahal, Ganji Galli, |] | |
| Somwar Peth, Kolhapur |] | |
| |] | |
| 5] The Education Officer (Secondary), |] | |

Zilla Parishad, Ratnagiri, having office]
at, Zilla Parishad Building, Ratnagiri] ...Respondents.

Mr. Prashant Bhawake for the Petitioners.
Ms. A.A. Purav, AGP for Respondent Nos. 1 to 4/State.

**CORAM: A.S. CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ**

DATE: 18th DECEMBER, 2023

ORAL JUDGMENT: *(Per A.S. Chandurkar, J.)*

1] Rule. Rule made returnable forthwith and heard learned Counsel for the parties.

2] The Petitioner No.3 came to be appointed on the post of Shikshan Sevak on 29/07/2013. The initial appointment was for a period of three years. The proposal seeking approval to the Petitioner's appointment was moved on 25/10/2013. The aforesaid proposal was ultimately decided on 15/07/2021.

3] Two reasons have been assigned by the Education Officer (Secondary) for not granting the said proposal. The said reasons are that, firstly in view of Clause 1.8 of the Government Resolution dated 02/05/2012, fresh recruitment was not permissible unless the surplus teachers were first absorbed. In this regard it is seen

that this Court in Writ Petition No.3708 of 2018 (*Sandiprao V. Savant vs. President/Secretary, Agrani Shikshan Prasarak Mandal & Ors.*) has by its order dated 23/08/2021 observed that the Government Resolution dated 02/05/2012 would not apply to an appointment made on a vacant post. The facts indicate that the incumbent who was appointed on the post of Assistant Teacher unfortunately expired in harness on 31/12/2012. The Petitioner was thereafter appointed on that post.

4] The second reason assigned is that recruitment of the Petitioner had not been undertaken in accordance with the Pavitra Pranali. For this reason, reference has been made to Government Resolutions dated 23/06/2017 and 20/06/2018. It has to be noted that the Petitioner was appointed much prior to issuance of these Government Resolutions and hence there is no question of making these Government Resolutions retrospectively applicable to the present case.

5] We therefore find that both the reasons assigned by the Education Officer (Secondary) are not sustainable. We therefore deem it appropriate to direct the Education Officer (Secondary) to re-consider the proposal dated 25/10/2013 afresh in accordance

with law and take decision thereon within a period of four weeks of receiving copy of this judgment. To enable re-consideration of the said proposal, order dated 15/7/2021 is set aside. It is made clear that proposal shall not be rejected on the grounds that have been referred to in the impugned order dated 15/07/2021. Decision on the proposal be taken after giving opportunity to the Petitioners. The decision taken be communicated to them accordingly. In case the appointment of the Petitioner No.3 is approved, she would be entitled to all consequential benefits, including grant of Shalarth-ID.

6] Keeping all other aspects of the matter open, Rule is made absolute in the aforesaid terms with no order as to costs.

[FIRDOSH P. POONIWALLA, J.] [A.S. CHANDURKAR, J.]