

Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5053 OF 2019

Dipika Mahesh Pisal alias Dipika Chandrakant Pawar ...Petitioner

Versus

Shikshan Seva Mandal, Malegaon, through Secretary & Ors ...Respondents

Mr Shirish V Pitre, for the Petitioner.

Mrs AA Purav, AGP, for State.

Mr Shekhar Jagtap, with Sairuchita Chowdhary, i/b J Shekhar & Co, for Respondent No.1.

**CORAM G.S. Patel &
 Neela Gokhale, JJ.**

DATED: 31st July 2023

PC:-

1. Heard.

2. Prayer clause (b) of the Writ Petition reads thus:

“(b) This Hon’ble Court may be pleased to issue a Writ of Mandamus or any other Writ, Order or Direction in the nature of Mandamus, directing to Respondent Nos. 1 and 2 to forthwith appoint the Petitioner as Assistant Teacher on Compassionate ground and further direct the Respondent Management to comply with the orders dated 3rd January

2018 and 14th February 2019 passed by Education Officer (Secondary) Pune, Zilla Parishad, Pune and grant approval to the appointment of the Petitioner as Assistant Teacher w.e.f. 18th June 2012.”

3. On the face of it, relief cannot be granted in these terms.
4. There is no fundamental right to a compassionate appointment. The law in that regard is well settled. Compassionate appointments, not being vested rights, are only to enable an affected family to tide over a sudden crisis.
5. The Affidavit in Reply of the 1st Respondent from page 28 tells a different story. To put it plainly, there is no sudden crisis. It is true that the Petitioner’s father, Chandrakant, was an Assistant Teacher with the 1st Respondent. He died on 19th May 2011. At that time, he was a permanent teacher. Chandrakant was survived by his widow, Vijaya, and their three children, a son, Rajnikant, and two daughters, the Petitioner and one Chandrika.
6. After Chandrakant died, his son Rajnikant applied for appointment on a compassionate basis. He withdrew that application. He is now employed with the Kotak Mahindra Bank in the Baramati branch for at least five years.
7. Vijaya too passed away on 30th November 2018. Chandrika completed her MBA degree and is running an independent business.

8. On 3rd July 2023, the 1st Respondent wrote to the Petitioner, her brother and her sister asking for details about Chandrika's work and employment. There was no response.

9. But more pertinently, the Reply points out that the Petitioner's husband, Mahesh Pisal, has a B.Ed. degree and is employed with a private school in Pune. Those details were not furnished to the 1st Respondent but are apparently set out in the Affidavit in Rejoinder, in which it is now argued that the Petitioner's husband works in a night school and that is, by definition, a part-time employment.

10. None of this assists the Petitioner in seeking the relief that is sought. A statement is made across the Bar that we should mould the relief and issue a writ to the 1st Respondent to consider the Petitioner's application for an appointment on compassionate grounds. It is said that the application has neither been rejected nor accepted.

11. Though the Affidavit in Reply of the 1st Respondent makes out a substantial case opposing the Petition, Mr Jagtap states on instructions that if the Petitioner makes an application with a complete disclosure and all particulars, including especially the employment and income status of her family members (including her siblings and her husband), the 1st Respondent will consider this as expeditiously as possible, and in any event within six weeks of that application being made.

12. That is sufficient for our purpose and the Petition is disposed of in these terms with no order as to costs.

(Neela Gokhale, J)

(G. S. Patel, J)