

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.7575 OF 2019

- 1) Dr. Rekha Ramkrishna Jagnale,
aged about 49 years, occupation :
service, r/o 39, Old Shukravari
Labhantanda, Nagpur.
- 2) Citizens Education Society, through
its President/Secretary, Hanuman Nagar,
Krida Chowk, Nagpur – 440009.
- 3) Shri Bhaiyyaji Pandharipande National
Institute of Social Work, through its
Principal, Hanuman Nagar, Krida
Chowk, Nagpur – 440009.

... Petitioners

- Versus -

- 1) State of Maharashtra, through its
Secretary, Department of Social
Justice and Special Assistance,
Mantralaya, Mumbai – 32.
- 2) Commissioner (Social Welfare),
State of Maharashtra, Pune-1.
- 3) Divisional Deputy Commissioner,
Department of Social Welfare,
Nagpur.
- 4) Rashtrasant Tukdoji Maharaj Nagpur
University, through its Registrar,
Chhatrapati Shivaji Maharaj
Administrative Building, Rabindranath
Tagore Road, Nagpur.

... Respondents

Shri Anand Parchure, Advocate for petitioners.

Shri A.S. Fulzele, Additional Government Pleader for respondent nos.1 to 3.

CORAM : A.S. CHANDURKAR AND
MRS.VRUSHALI V. JOSHI, JJ.

DATED : JANUARY 9, 2023

ORAL JUDGMENT (PER A.S. CHANDURKAR, J.) :

Rule. Rule is made returnable forthwith. Heard finally by consent of the learned Counsel appearing for the parties.

2) The petitioner no.1 applied for the post of Lecturer in the subject of Marathi pursuant to the advertisement issued by the petitioner nos.2 and 3 on 10/7/2010. The petitioner no.1 was thereafter duly selected and came to be appointed on 3/12/2010. While seeking approval to her appointment, the Commissioner, Social Welfare, Pune – respondent no.2 granted the same from 1/1/2013 for the period of two years on probation. In the order of approval dated 11/3/2014, it was specifically mentioned that the responsibility to pay salary for the period from 3/12/2010 to 31/12/2012 would be of petitioner nos.2 and 3. Thereafter on 8/7/2015 regular approval has been granted to the appointment of

petitioner no.1. The petitioners question the refusal to grant of approval for the period from 3/2/2010 to 31/12/2012.

3) Shri Parchure, learned Counsel for the petitioners, submits that as per policy of the State Government, for every 14 students, one post of Lecturer is admissible. While sanctioning the post of Lecturer, average number of students for last three years is taken into consideration. This information was received by the petitioners under the provisions of the Right to Information Act, 2005 at the behest of one Shri A.S. Motewar on 23/9/2019. It is submitted that in view of the aforesaid information, denial of approval for the period from 3/12/2010 to 31/12/2012 was unjustified. On a proper consideration of the aforesaid aspect, the petitioner no.1 would be entitled to grant of approval from the initial date of appointment.

4) Shri Fulzele, learned Additional Government Pleader for the respondent nos.1 to 3, has relied upon the affidavit-in-reply and submitted that the petitioner no.1 had in fact given an undertaking on 6/12/2013 while seeking approval to her appointment from January 2013. In the light of such undertaking, it would not be permissible for the petitioners to now claim approval from

3/12/2010. The impugned order dated 11/3/2014 was passed after considering the inspection report and hence, approval has been rightly granted from 1/1/2013.

5) On considering the documents on record, we find that though the petitioner no.1 was appointed on 3/12/2010, her appointment has been approved from 1/1/2013. The aspect to be considered is whether the number of Lecturers to be taken would be 10 or 11 in these circumstances. For every 14 students, post of one Lecturer is made admissible. In the light of average number of students for last three years, the said aspect has to be considered. As per the information received from the Office of Social Welfare Department, if there are 146 students, being average for the last three years then for each year that figure comes to 10.61. It is stated that number of Lecturers would be 11. This aspect requires consideration for the reason that the same does not appear to have been considered in the order dated 11/3/2014. No doubt, the petitioner no.1 has been subsequently granted approval from 1/1/2015 and onwards coupled with the fact that she had given an undertaking on 6/12/2013 seeking such approval from 1/1/2013. Be that as it may, we find that adjudication of this relevant aspect

would require consideration by the respondent no.2. The effect of giving such undertaking can be thereafter considered, if the occasion arises.

6) Hence, for the aforesaid reason, the respondent no.2 is directed to re-consider the aspect whether appointment of the petitioner no.1 can be approved from 3/12/2010 in the light of the fact that one post of Lecturer is admissible behind 14 students based on the average number of students for last three years. The information supplied under the Right to Information Act, 2005 on 23/9/2019 can also be taken into consideration in that regard. Hence, the respondent no.2 shall conduct the aforesaid exercise within a period of three months from receiving copy of this judgment. The effect of furnishing “no objection” on 6/12/2013 by the petitioner no.1 is kept open for consideration, if the occasion arises. Till such consideration, the approval order dated 11/3/2014 shall continue to operate and it would be subject to adjudication by the respondent no.2.

7) Rule is made absolute in the above terms. The petition

is disposed of accordingly. No costs.

JUDGE

JUDGE

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