

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10006 OF 2024

Roohi Shifan Fondu And Ors

...Petitioners

Versus

The State Of Maharashtra And Anr

...Respondents

Mr. Chetan G. Patil i/b. Mr. Mandar G Bagkar for the Petitioners.

Mr. B. V. Samant, Addl GP a/w. Ms T. J. Kapre, AGP for the Respondent
Nos. 1 and 2

**CORAM : NITIN JAMDAR &
M. M. SATHAYE, JJ.**

DATED : 26 JULY 2024

P.C.:

1. Heard learned Counsel for the parties. At the outset, learned counsel for the Petitioners states that Petitioner No.1's maiden name (before marriage) was Ms. Roohi Ajj Naik, which is appearing in the impugned Order. He undertakes to carry out necessary amendment in the cause title, within a period of 2 weeks. Amendment be carried out within 2 weeks.

2. The Petitioner No. 1 – Employee working with the Petitioner No. 3-Junior College run by the Petitioner No. 2-Education Society are jointly challenging the order dated 29 November 2023 passed by the Respondent No. 2-Deputy Director of Education, Kolhapur Division, Kolhapur.

3. By the said impugned order the approval for the appointment of the Petitioner No. 1 as laboratory Assistant is rejected. The impugned Order relies on the communication dated 1 August 2022 issued by the Director of Education (Secondary and Higher Secondary), Pune, a copy of which is tendered in the Court.

4. Learned Counsel for the Petitioners submitted that in Writ Petition No. 5058 of 2021 and Writ Petition No. 8007 of 2021, the Government Resolution (GR) dated 28 January 2019 and subsequent follow up GR dated 7 March 2019 which has changed the staffing pattern in the aided secondary and higher secondary schools, were challenged. It is pointed out that initially by order dated 6 September 2021, stay was granted by this Court in those petitions, which was continued from time to time and this had resulted in the communication dated 1 August 2022 referred in the impugned order. Learned Counsel for the Petitioners has relied upon the order dated 6 February 2024 by which the said petitions are now disposed of.

5. Perusal of the order dated 6 February 2024 shows that this Court has found that it is not necessary to continue to entertain the challenge at the behest of the Petitioners /Associations in those Petitions and the Writ Petitions are disposed of and the interim order passed therein is also vacated. In that view of the matter, the reason for rejection in the impugned order, based on the communication dated 1 August 2022 will not survive and the same is accordingly set aside.

6. However, by the impugned communication/order various other shortfalls/objections are already communicated to the Petitioner-Management regarding which explanation will have to be given by the Petitioners and factual inquiry about those objections cannot be undertaken in this Court.

7. In that view of the matter, we dispose of the Petition by directing that the impugned order dated 29 November 2023 will be treated as notice to Petitioners of the proposed ground/s for rejection of Petitioners' proposal, which stands restored. If there are any other grounds on which the Respondent No. 2 intends to return or reject the proposal, he is directed to communicate the same to the Petitioners within a period of 3 weeks from today.

8. The Petitioners shall thereafter submit their explanation to the proposed grounds, along with supporting material including government resolutions, case laws / orders of this Court etc. if relied upon. The Respondent No. 2 is directed to decide the proposal thereafter within a period of 8 weeks, by dealing with the explanation given by the Petitioners as also dealing with case law/orders of this Court, by passing a reasoned order, subject to other time bound directions. The order will be passed keeping in mind the directions issued by this Court in Part II Clause A(i) to (iii) of *Judgment dated 16 April 2024* in the matter of *Nitin B. Tadge Vs. State of Maharashtra in Writ Petition No. 204 of 2019* and other companion petitions.

9. We have not expressed any opinion on the Petitioner No. 1's proposal and the same shall be decided on its own merits in accordance with law. Needless to mention that if the Respondent No. 2 proceeds to grant proposal as prayed, consequent benefits and orders will follow, and in that case, the aforesaid procedure/directions will not apply.
10. The writ petition is disposed of in the aforesaid terms.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)