

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11704 OF 2024

Smt. Dhanashri Jayawant Chavan and Ors. ...Petitioners

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. Mandar Bagkar for the Petitioners.

Ms. Pooja Joshi Deshpande, AGP for Respondent Nos. 1 to 3/State.

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

DATE : 29 AUGUST 2024

P.C. :

. Heard learned counsel for the parties.

2. Petitioner No. 1 Employee working with Petitioner No. 3 High School run by Petitioner No. 2 Education Institute are jointly challenging the Orders dated 10 September 2022 and 30 November 2023 passed by Respondent No. 3 / Education Officer (Secondary), Zilla Parishad, Sangli. The net effect of said impugned Orders is that the approval for appointment of Petitioner No. 1 as Shikshan Sevak is rejected.

3. Perusal of first impugned order dated 10 September 2022 would show that the proposal was rejected on the basis of certain shortfalls indicated in the said order. Despite rejection of proposal,

the Petitioner Education Institute resubmitted the proposal under its letter dated 12 June 2023, on the ground that shortfalls are cured. On this re-submission, the second impugned order dated 30 November 2023 is passed. The wording of the second impugned order indicates that there is no rejection as such and it is mere communication. Once the proposal was rejected by first impugned order, Respondent no. 3 could have processed it by issuing second impugned order/communication. Be that as it may. We will treat the first impugned order as rejection and second impugned order as mere communication.

4. The impugned Order dated 10 September 2022 is admittedly passed without hearing the Petitioners or opportunity to explain about shortfalls. Had an opportunity been given, the Petitioners would have given appropriate and necessary explanation to reasons stated in impugned order for rejecting proposal. It has resulted in a situation where inquiry about the grounds of rejection are required to be done first time in this Court.

5. In that view of the matter, we dispose of this petition by directing that the impugned order dated 10 September 2022 will be treated as notice to Petitioners of the proposed ground/s for rejection of Petitioner No. 1's proposal, which stands restored. If there are any other grounds on which the Respondent Education Officer 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.

6. The Petitioners shall thereafter submit its explanation to the proposed grounds, along with supporting material including government resolutions, case laws / orders of this Court etc. if relied upon.

7. Thereafter within a period of 8 weeks, subject to other time bound directions, the Respondent Education Officer is directed to decide the proposal by dealing with the explanation given by the Educational Institute as also dealing with case law/orders of this Court, by passing a reasoned order. The order will be passed keeping in mind the directions issued by this Court in Part II Clause A(i) to (iii) of the judgment in the matter of *Nitin B. Tadge Vs. State of Maharashtra*¹.

8. We have not expressed any opinion on the Petitioners' proposal and the same shall be decided on its own merits in accordance with law. Needless to mention that if the Respondent Education Officer proceeds to grant proposal as prayed, consequent benefits and orders will follow.

9. The writ petition is disposed of in the aforesaid terms.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)

¹ 2024 SCC OnLine Bom 1116