

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16735 OF 2023

Smt.Tai Balaso Patil ... Petitioner
versus
The State of Maharashtra and Others ... Respondents
.....
Mr.Prashant Bhavake for the Petitioner.
Mr.V.M.Mali, AGP for Respondent Nos. 1 to 5-State.

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

DATE : 4 JANUARY 2024

P.C.:

Heard the learned Counsel for the parties.

2. The Petitioner, who is working with Respondent No. 7-Secondary School as a peon, is before us challenging the order of rejection of the proposal for approval to Petitioner's appointment. This petition should have been ideally filed by Educational Institution or along with the employee, but since the learned Counsel for the Petitioner asserts that Respondent No.6-Educational Institution is supporting the cause of the Petitioner, we proceed on that basis.

3. The learned Counsel for the Petitioner contends that had an opportunity been given to Respondent No.6- Educational

Institution, Respondent No.6- Educational Institution would have pointed out that Respondent No.6- Educational Institution has explanation for all the grounds stated in the impugned order and some of the grounds are not tenable in view of the law laid down by the Court.

4. This grievance is correct. By passing orders without dealing with the explanation or giving an opportunity to those who have submitted the proposals would mean that their explanations have to be considered at the first instance by this Court whereby substantial judicial time has to be invested.

5. In these circumstances, we direct that the impugned order dated 23 November 2022 passed by Respondent No.5- Education Officer (Secondary) shall be treated as a notice to Respondent No.6- Educational Institution of the proposed grounds for rejection and calling upon Respondent No.6- Educational Institution to submit an explanation. Respondent No.6- Educational Institution will submit the explanation to the grounds stated in the impugned order dated 23 November 2022 which is directed to be treated as notice. Respondent No.6- Educational Institution shall do so within a period of four weeks from today. If Respondent No.6- Educational Institution intends to rely upon any decision of the Court, then Respondent No.6- Educational Institution will annex the same to the reply. Thereupon, the Education Officer will deal with the

explanation given by Respondent No.6- Educational Institution and the decisions which Respondent No.6- Educational Institution has cited. Thereafter, the Education Officer pass a detailed order dealing with the same.

6. Needless to state that if the Education Officer is satisfied with the explanation given by Respondent No.6- Educational Institution, then the Education Officer proceed to pass an order of granting approval and also issue consequential directions regarding entry in the Shalarth software as per the governing rules and regulations. Let the exercise of passing an order be completed within 8 weeks after the explanation is so submitted by Respondent No.6- Educational Institution.

7. With these observations, the writ petition is disposed of.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)