

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3264 OF 2023

South Indian Children's Education Society
Subhashwadi, Thane and Ors. ...Petitioner

Versus

State of Maharashtra And Anr. ...Respondents

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Mr. Rahul S. Kadam, for Petitioner.
Mr. S.B. Kalel, AGP for Responden/State.

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

DATE : 24 JANUARY 2024

P.C.:

. Heard learned counsel for the parties.

2. Petitioner No. 1 - Management, Petitioner No. 2 - School and Petitioner No. 3 - Employee are jointly challenging the Order dated 23 December 2022 passed by Respondent No. 2 / Education Officer, Zilla Parishad, Thane. By said impugned Order, proposal seeking approval to appointment of Petitioner No. 3 on the post Junior Clerk is rejected.

3. It is submitted that, had an opportunity been given, the

Petitioners would have given appropriate and necessary explanations to the reasons stated for rejection, which are in fact not applicable to Petitioners' proposal. It is further submitted that the Petitioner No. 2 is a minority institute and the proposal of the Petitioner is covered under various government resolutions which have not been considered by the Education Officer. It is urged that Petitioner is about to retire in May 2024 and therefore early decision is necessary to be taken.

4. The Education Officer has directly rejected the proposal, without informing proposed grounds of rejection. This 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 23 December 2022 will be treated as notice to Petitioner Educational Institute of the proposed grounds of rejection. The Petitioners' proposal stand restored. If there are any other grounds on which the Education Officer intends to reject the proposal, he is directed to communicate the same to the Petitioner Educational Institute within a period of 2 weeks from today.

6. The Educational Institute shall thereafter submit its

explanation to the proposed grounds of rejection, along with supporting material including Government Resolutions, case laws / orders of this Court etc. if relied upon. The Respondent / Education Officer is directed to decide the proposal thereafter within a period of 4 weeks, 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. It is clarified that if frivolous distinctions are made by the Respondent Authority about the Petitioners' case, vis-a-vis the case law / orders of this Court relied upon, necessary consequences will ensue.

7. The Petitioners' proposal shall be decided on its own merits in accordance with law. Needless to mention that if the Respondent/Education Officer decided to grant proposal as prayed, the aforesaid procedure/directions will not apply.

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

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)