

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2078 OF 2024

Bushara Bano Munir Ahmed

... Petitioner

Versus

The State of Maharashtra thr the Secretary and
ors

... Respondents

Mr.Prashant Bhavake for the Petitioner.

Mr. Utkarsh Desai for the Respondent Nos.6 & 7.

Ms. S. S. Bane, AGP for the Respondent- State.

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

DATE : **27 MARCH 2024.**

P.C. :

1. Heard the learned counsel for the parties.
2. Petitioner is working with Respondent Nos. 6 and 7. He is aggrieved by non-consideration of the proposal submitted by the Respondent – management for approval of Petitioner's appointment. First letter dated 6 September 2019 of the proposal regarding Petitioner's appointment was rejected on the ground that there was non adherence to the Government Resolution dated 6 February 2012. Thereafter, on 30 November 2022, the Petitioner submitted explanation. Then on 1 February 2023, the approval was rejected on

a different ground with reference to Government Resolution dated 10 June 2022 that the advertisement before the appointment was not given in the newspapers which has the widest circulation. On 6 February 2023, the Petitioner sought to give an explanation that the newspapers had widest circulation and Government Resolution dated 10 June 2022 has no retrospective action. Then by order dated 13 September 2023, the said proposal was rejected.

3. Learned counsel for the Petitioner and the management pointed out that in various decisions, this Court has taken a view that the second Government Resolution has no retrospective effect. We find that the grievance of the Petitioner is correct.

4. Perused the impugned order. 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 13 September 2023 passed by Respondent No. 5 (Education Inspector, Greater Mumbai – Northern Division) will be treated as notice to the Respondent / management of the proposed ground/s for return/rejection of Petitioner's proposal. The Petitioner's proposal stands restored. If there are any other grounds on which the Respondent / Education Inspector intends to return/reject the proposal, he is directed to

communicate the same to the Respondent / management within a period of 3 weeks from today.

6. The Respondent / management 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. The Respondent / Education Inspector is directed to decide the proposal thereafter within a period of 8 weeks, by dealing with case law/orders of this Court, by passing a reasoned order, subject to other time bound directions.

7. We have not expressed any opinion on the Petitioner's proposal and the same shall be decided on its own merits in accordance with law. Needless to mention that if the Respondent / Education Inspector decides to grant proposal as prayed, consequent orders/benefits will follow and in that case, 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.)