

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8614 OF 2023

Fabina Philip Mot

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Sagar Rane for the Petitioner.

Mr. S.B. Kalel, AGP for the Respondent Nos. 1 and 2/State.

Mr. Smarth Moray i/b Ms. Shivani Shinde for Respondent Nos. 3 and 4.

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

DATE : 18 APRIL 2024

P.C. :

. Heard learned counsel for the parties.

2. The Petitioner/ employee working with Respondent No. 4 School run by Respondent No. 3 Educational Institute, is challenging the Order dated 16 November 2022 passed by Respondent No. 2 / Education Officer (Secondary), Zilla Parishad, Palghar. By said impugned Order, the approval for Petitioner's appointment as Shikshan Sevak is rejected. Learned counsel for the Respondent No. 3 & 4 states that there is no internal dispute in the Management and they are supporting the cause of the Petitioner.

3. It is submitted that the impugned order is passed without any show cause notice and had an opportunity been given, the Petitioner / Respondent Management would have given appropriate and necessary explanation to reasons stated in impugned order for rejecting proposal.

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 16 November 2022 will be treated as notice to Respondent / Educational Institute of the proposed ground/s for rejection of Petitioner'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 Respondent/Educational Institute within a period of 3 weeks from today.

6. The Respondent Educational Institute 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 Officer is directed to decide the proposal thereafter within a period of 8 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, 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.

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 Officer proceeds to grant proposal as prayed, consequent benefits and orders 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.)