

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6328 OF 2024

1. The Managing Trustee
2. Ms. Anuradha Upadhyay

...Petitioners

Versus

The Education Officer (Secondary),
Zilla Parishad And Ors.

...Respondents

Mr. Mandar Limaye for the Petitioners.

Mr. B. V. Samant, Addl. GP a/w. Ms T. J. Kapre, AGP for the Respondent
Nos. 1 to 3

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

DATED : 3 MAY 2024

P.C.:

. Heard learned counsel for the parties.

2. Petitioner No. 2 – Anuradha Upadhyay / employee working with
Petitioner No. 1 School/ Management are jointly challenging the Order
dated 31 October 2023 passed by Respondent No. 1 / Education Officer
(Secondary), Raigad Zilla Parishad, Thane. By said impugned Order, the
approval for Petitioner No.2's appointment as Shikshan Sevak (aided
post) is rejected.

3. It is submitted that the impugned order is passed without any show

cause notice and had an opportunity been given, the Petitioners 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. The Division Bench of this Court in the decision of *Nitin B. Tadge Vs. State of Maharashtra*¹ and other companion petitions after considering that in large number of cases, petitions are filed making a similar grievance, has issued the directions as under: :

“PART- II

A. (i) We direct that upon receipt of a proposal seeking approval, the Educational Authority, as per the methodology laid down in the Government Resolution dated 6 February 2012, will communicate the shortfalls/objections in the proposal submitted by the Management/Employer as the case may be calling for explanation giving them reasonable time. Upon receipt of such explanations, the Educational Authority will examine the explanation and pass a reasoned order.

(ii) If any judicial pronouncement is cited regarding the shortfalls/ objections in the explanation, then in the reasoned order, the Educational Authority will specifically address the legal position laid down by the said judicial pronouncement.

¹ Writ Petition No. 204 of 2019, order dated 16 April 2024

(iii) It is emphasized that avoiding referring to and avoiding considering the legal position laid down in the judicial pronouncement would be viewed seriously and may result in action under the contempt jurisdiction of this Court.”

6. In that view of the matter, we dispose of this petition by directing that the aforesaid impugned order will be treated as notice to Petitioners of the proposed grounds for rejection of Petitioner No. 2's proposal, which stand 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.

7. The Petitioners shall thereafter submit their 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 Institutes as also dealing with case law/orders of this Court, by passing a reasoned orders, subject to other time bound directions. The order shall be passed keeping in view the directions narrated above in *Nitin B. Tadge's* case.

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, and in that case, the aforesaid procedure/directions will not apply.

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

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)