

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6989 OF 2023

Shree Siddheshwar Devasthan's
Siddheshwar High School and Anr. ...Petitioners

Versus

The State of Maharashtra and Ors. ...Respondents

SNEHA
NITIN
CHAVAN

Mr. Shankar Deshmukh for the Petitioners.

Mr. B.V. Samant, Addl. G.P. a/w S.B. Kalel, AGP for Respondent
No.1.

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by SNEHA
NITIN CHAVAN
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**CORAM : NITIN JAMDAR AND
M.M.SATHAYE, JJ.**

DATE : 16 JANUARY 2024

P.C. :

. Heard the learned counsel for the parties.

2. Petitioner No.1/school and Petitioner No.2/retired teacher have jointly filed this petition seeking direction against Respondent Nos. 2, 3 and 4 (Deputy Director of Education, Pune Division, Pune, Education Officer (Secondary) Zilla Parishad, Solapur and its Senior Auditor) to process the pension proposal of Petitioner No.2 and for consequential relief of release of pensionary benefits including gratuity. The Petitioners have sought stay of a letter/communication issued by Respondent No.3 dated 15

September 2022, by which the Education Officer has recommended to cancel the benefit and approval of selection grade pay and fixation of pay scale given to Petitioner No. 2. Petitioner No. 2 has already retired on superannuation on 30 September 2021.

3. Perusal of communication dated 15 September 2022 shows that the Education Officer has issued the said communication clearly accepting that the approval for selection grade pay and fixation of pay scale were granted inadvertently or by error.

4. It is submitted that there is inaction on the part of Respondent Authorities in processing the pension proposal of Petitioner No. 2. It is further submitted that if an opportunity was given before making such recommendation, the Petitioners could have given appropriate explanation. It is submitted that already by order dated 26 July 2022, the Education Officer had approved selection grade pay and fixation of pay scale of Petitioner No.2 and as such the recommendation for its cancellation could not have been issued without hearing the Petitioners.

5. The method adopted by the Respondent/Education Officer of issuing such recommendation, without first calling upon the affected parties or without issuing show cause notice indicating proposed grounds, is leading to such petitions, where the inquiry about reasons of rejection/cancellation are required to be gone into for the first time

in this Court.

6. In the aforesaid facts and circumstances, we deem it appropriate to dispose of this petition by directing that the communication dated 15 September 2022 shall be treated as notice to Petitioners indicating proposed grounds for recommendation of cancellation. If the Respondent/Education Officer has any other objection to the approval granted to the proposal of Petitioner No.2, the same shall be communicated by him to the Petitioners within three weeks from today. The Petitioners shall thereafter give their explanation and submit material including government resolution and caselaw, orders of this Court in support of their case, if any. Respondent No. 3 is thereafter, directed to take decision on the pension proposal of Petitioner No.2 by passing a reasoned order, dealing with material placed before him including caselaw or orders of this Court, if any.

7. Let this exercise be done within a period of eight weeks from the date of submission of explanation by the Petitioners.

8. We have not expressed any opinion on the merits of the Petitioner's proposal and the same shall be decided on its own merits and in accordance with law. Needless to mention that if the Respondent Authorities proceed to grant Petitioners' proposal as prayed, then the aforesaid procedures/direction shall not apply.

9. The Writ Petition is disposed of in the aforesaid terms.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)