

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11561 OF 2022

Miss Vijaya Govind Shete

... Petitioner

versus

The State of Maharashtra and Others

... Respondents

.....

Mr.Ajay A. Joshi for the Petitioner.

Ms.Tejas J. Kapre, AGP for the Respondent -State.

Mr.Anvil S. Kalekar for Respondent Nos. 4 and 5- Management.

.....

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

DATE : 8 MAY 2024

P.C. :

. By this petition, the Petitioner has sought a direction to consider the Petitioner's representation dated 5 January 2019 for appointment on compassionate basis with Respondent Nos. 4 and 5- Management.

2. The Petitioner, who is single, and her mother Shalan Govind Shete were dependent on the Petitioner's brother Audumbar, who was working as a Shikshak Sevak with Respondent Nos. 4 and 5- Management. The appointment was approved. Audumbar passed away in July 2014. The Petitioner made representation/ application

for appointment in time. Since no steps were being taken, the Petitioner has filed this petition.

3. Various orders were passed since there was a debate regarding the application made by the Petitioner as to whether it was received by Respondent Nos. 4 and 5-Management or not. According to the Petitioner, as per the Government Resolution as applicable, the Petitioner had to first apply to the Education Authorities which the Petitioner did. According to the Petitioner, the Education Authorities called upon Respondent Nos. 4 and 5 - Management to submit a proposal. According to Respondent Nos. 4 and 5-Management, this communication was not received. Thereafter, the orders had to be passed to ascertain this position.

4. Ultimately, on 23 April 2024, the following order came to be passed :

“The learned AGP has tendered an affidavit stating that the original record is lost and a criminal case is filed.

2.The Petitioner is stated to have made an application to the Education Officer (Secondary), Zilla Parishad, Solapur on 22 December 2014 in respect of death of her brother, who was working as an Assistant Teacher with the Respondent - Management. It is the case of the Petitioner that in spite of making this application, reminding the Education Officer and the Management on several occasions, no steps are being taken. According to the Petitioner, the Education Officer has also reminded the Respondent -Management

on 1 January 2015 and 3 March 2015, yet no steps are being taken by the Respondent - Management. According to the learned Counsel for the Respondent -Management, letter dated 3 March 2015 was not received. There was a debate on this communication for which reply as above has been filed by the Education Officer.

3.Be that as it may, as to the appointment is concerned, the learned Counsel for the Respondent – Management states that there is no objection except on the procedural aspects. The Government Resolution dated 31 December 2002 contemplates that an application to be made to the Education Officer which the Petitioner has done. The question will now remain of period of 10 years.

4.We have to keep in mind the object of compassionate appointment when we consider the time span. The learned Counsel for the Petitioner states that the Petitioner will file additional affidavit placing on record the position that the Petitioner continues in the same financial situation of dependency even today. We also note that the Petitioner had applied in time and prima facie delay is not directly attributed to the Petitioner.

*5.Stand over to **8 May 2024**, to be listed under the caption “For Directions”.*

5. The learned Counsel for the Petitioner states that the additional affidavit is filed. In additional affidavit, it is stated that the Petitioner is still unemployed and she is living with her mother who is 74 years old.

6. In light of the earlier orders and the order dated 23 April 2024, we dispose of the writ petition directing Respondent No.3- Education Officer (Secondary) to carry out necessary factual enquiry in respect of the additional affidavit filed and Respondent No.3 - Education Officer (Secondary) along with Respondent Nos. 4 and 5- Management to take necessary steps for issuance of the appointment order if the factual aspect regarding dependency of the Petitioner is verified.

7. Let the entire exercise be completed and necessary orders be passed within a period of eight weeks from today.

8. Writ petition is accordingly disposed of.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)