

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 16031 OF 2023
WITH
WRIT PETITION NO. 16036 OF 2023
WITH
WRIT PETITION NO. 16044 OF 2023

The Sudhagad Education Society and others. ... Petitioners.

V/s.

The State of Maharashtra and others. ... Respondents.

Mr.Anand S. Patil for the Petitioners.

Mr.S.H.Kankal, AGP for the Respondents.

SANJAY
KASHINATH
NANOSKAR

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

DATE : 5 January 2024.

P.C. :

These petitions are filed by the Sudhagad Education Society, Raigad along with its employees seeking to question rejection of the proposal to grant approval to the appointment of Petitioner No.3- employees. Petitioner No.1- Sudhagad Education Society is a Trust registered under the provisions of the Maharashtra Public Trusts Act, 1950. Petitioner No.2- School is run by Petitioner No.1- Trust. The Petitioners submitted a proposal to the Respondent- Education Officer (Secondary), Raigad Zilla Parishad, Alibagh seeking approval to the appointment of the Petitioner-employees. By the impugned order dated 19 April 2023, the proposal was rejected.

2. We have heard Mr.Patil for the Petitioners and the learned AGP for the State.

3. While rejecting the proposal, the Respondent- Education Officer has listed the grounds on which the proposal is rejected. According to the Petitioners, the grounds stated in the impugned order are legally and factually incorrect. The Petitioners contend that without giving any opportunity, the impugned order rejecting the proposal was passed and had an opportunity been given to the Petitioners, the Petitioners would have demonstrated that the grounds taken in the impugned order are not correct. Therefore, the Petitioners' response to the grounds stated in the impugned order is being debated before us to be considered by this Court at the first instance.

4. In various orders, we have noted that by not giving an opportunity to the educational institute and passing the orders unilaterally and then filing reply affidavits in this Court when challenge is raised entails not only investing substantial judicial time but needless time, cost and expenses for all concerned. The Petitioners are right in making the grievance that before rejecting the proposal had they been put to notice of the grounds of rejection, then they could have put forth their say to the said grounds. In these circumstances, we deem it proper to dispose of the petitions with appropriate directions.

5. The proposal sent by the Petitioners is restored to file. The impugned order dated 19 April 2023 passed by the Respondent- Education Officer (Secondary), Raigad Zilla Parishad, Alibagh shall be treated as a notice to the Petitioners setting out the *prima facie* opinion of the Education Officer. The Petitioners will submit their response to the said notice. If the Petitioners intend to rely on any Government Resolution/ Circular or judicial pronouncement, the Petitioners will annex the same to their response. Upon receiving the reply/ response from the Petitioners, the Respondent Education Officer will deal with the same and pass a reasoned order. If any decision of the Court is relied upon by the Petitioners, the Education Officer will carefully examine the same as to the legal position. After the response is received, the Education Officer will pass an order within a period of eight weeks thereafter, subject to earlier time-bound commitments.

6. Needless to state that if the Respondent-Education Officer is satisfied with the response given by the Petitioners, then the Education Officer will proceed to issue the order of approval and take such other consequential steps as per the law and procedure.

7. Writ petitions are accordingly disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)