

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

WRIT PETITION NO. 366 OF 2024

Sucheta Sankpal

...Petitioner

Versus

The State Of Maharashtra Thr Its
Principal Secretary Higher And
Technical Education And Ors.

...Respondents

Ms. Devyani Kulkarni for the Petitioner.

Ms. R.A. Salunkhe, AGP for Respondent Nos. 1 to 3.

SNEHA
NITIN
CHAVAN

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

DATE : 16 JANUARY 2024

P.C. :

. Heard learned counsel for the parties.

2. The Petitioner was working with Respondent No.6 College of Respondent No.5 Institution affiliated to Respondent No.4 University. The Petitioner was appointed on 1 October 1998, thereafter retired on 28 February 2023. After retirement, the proposal for pensionary benefit of the Petitioner was forwarded by the Respondent/Management to the State Government. Respondent No.3 Joint Director of Higher Education has rejected/asked re-submission of the proposal by impugned order dated 3 March 2023, setting out various reasons for the same. The Petitioner has

thereafter, represented to the Joint Director that the reasons stated therein are not correct in law and fact. However, there is no response. Therefore, the present petition is filed.

3. The Joint Director has returned the proposal to the Respondent Management setting out various grounds. The learned counsel for the Petitioner submits that for all these grounds stated in the impugned order, the Petitioner can demonstrate that they are not legally and factually correct and had an opportunity been given, the Respondent/Management would have done so. The learned counsel for the Petitioner states that Respondent Management is supporting the cause of the Petitioner.

4. We are in agreement with the contention of the Petitioner that if reasons for rejection were communicated to the Petitioner before passing the final order, the Petitioner would have placed on record the explanation including the decisions of the Court. We find that without giving any opportunity by supplying proposed reasons by way of a notice in advance and thereafter rejecting the proposal, some times in contravention of settled law of this Court, would mean that the adjudication takes place at the first instance in the Court. It is infact responsibility of the Joint Director to pass correct order in law and fact and not merely pass order without reference to any other aspect.

5. In these circumstances, we convert the order dated 3 January

2023 as a show cause notice to the Respondent/Management. The response of the Petitioner and the Respondent/Educational Institute is already on record file of the Joint Director. In this response, they have relied upon the decisions of this Court. We permit the Petitioner to place relevant decisions of this Court before the Joint Director.

6. In case, the Joint Director is proposing to pass any adverse order he shall deal with the law laid down by this Court and if according to the Joint Director, it is not applicable to the facts of the Petitioner's case, give clear and cogent reason why it is not so. We make it clear that if we find that distinction is drawn on frivolous and untenable grounds, consequences would follow. The Joint Director will pass a reasoned order within a period of eight weeks from today, subject to earlier time bound commitments and pressing public duty.

7. Needless to state that in case the Joint Director is proceeding to pass an order in favour of the Petitioner, the above directions would not apply.

8. The Joint Director, apart from the show cause notice as above, shall also deal with other prayers made by the Petitioner in the representation. Writ Petition is disposed of accordingly.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)