

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3128 OF 2024

Smt. Bhagyashri Ram Hogale

...Petitioner

Versus

State of Maharashtra through the Department of
Education, Mantralaya, Mumbai and Ors.

...Respondents

Mr. Chetan Patil a/w. Mandar G. Bagkar, for Petitioner.

Mr. S.B. Kalel, AGP for Respondents.

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

DATE : 7 MARCH 2024

P.C.:

. Heard learned counsel for the parties.

2. Petitioner/ employee working with Respondent No. 4 High School run by Respondent No. 3 Educational Institute, is challenging the Order dated 11 October 2022 passed by Respondent No. 2 / Deputy Director of Education Kolhapur Division, Kolhapur. By said impugned Order, the approval for Petitioner's appointment is rejected. Learned counsel for the Petitioner states on instructions that there is no internal dispute in Respondent-Management Trust / Institute and they are supporting the cause of the Petitioner till today.

We proceed on the basis of said statement.

3. It is submitted that the impugned order is passed without any show cause notice and had an opportunity been given, the Petitioner / Respondent Management would have given appropriate and necessary explanation to reasons stated in impugned order for rejecting proposal. Learned AGP points out that Respondent No. 2 has filed affidavit in reply.

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. In that view of the matter, we dispose of this petition by directing that the impugned order dated 11 October 2022 will be treated as notice to Respondent / Educational Institute of the proposed ground/s for rejection of Petitioner's proposal and affidavit in reply dated 25 April 2023 filed by Respondent No. 2 will be treated as *prima facie* view. The Petitioner's proposal stands restored. If there are any other grounds on which the Respondent No. 2 intends to return or reject the proposal, he is directed to communicate the same to the Respondent/Educational Institute within a period of 3 weeks from today.

6. The Respondent Educational Institute shall thereafter submit its explanation to the proposed grounds, along with supporting

material including government resolutions, case laws / orders of this Court etc. if relied upon. The Respondent No.2 is directed to decide the proposal thereafter within a period of 8 weeks, by dealing with the explanation given by the Educational Institute as also dealing with case law/orders of this Court, by passing a reasoned order, subject to other time bound directions.

7. We have not expressed any opinion on the Petitioner's proposal and the same shall be decided on its own merits in accordance with law. Needless to mention that if the Respondent No. 2 proceeds to grant proposal as prayed, consequent benefits and orders will follow, and in that case, the aforesaid procedure/directions will not apply.

8. Writ petition is disposed of in the aforesaid terms.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)