

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6461 OF 2024

The Sudhagad Education Society and others. ... Petitioners

Versus

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

....

Mr.Anand S. Patil, for the Petitioners.

Mr.B.V. Samant, Addl. GP a/w. Ms. Nisha Mehra, AGP for the
Respondent/State.

....

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

DATE : 6 May 2024

P.C. :

This petition is filed by the Petitioner No.- Sudhagad Education Society, Raigad along with its employee seeking to question rejection of the proposal to grant approval to the appointment of Petitioner No.3- employee Smt. Archana Kashinath Jadhav. 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 No.3- Education Officer (Secondary), Raigad Zilla Parishad, Alibagh seeking approval to the appointment of the Petitioner No.3- employee. By the impugned order dated 24 January 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. 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.

5. The Division Bench of this Court in the decision of *Nitin B. Tadge Vs. State of Maharashtra*¹ and other companion petitions after considering that in large number of cases Petitions are filed making a similar grievance, has issued the directions as under:

“PART- II

A. (i) We direct that upon receipt of a proposal seeking approval,

¹ Writ Petition No. 204 of 2019, order dated 16 April 2024

the Educational Authority, as per the methodology laid down in the Government Resolution dated 6 February 2012, will communicate the shortfalls/objections in the proposal submitted by the Management/Employer as the case may be calling for explanation giving them reasonable time. Upon receipt of such explanations, the Educational Authority will examine the explanation and pass a reasoned order.

(ii) If any judicial pronouncement is cited regarding the shortfalls/ objections in the explanation, then in the reasoned order, the Educational Authority will specifically address the legal position laid down by the said judicial pronouncement.

(iii) It is emphasized that avoiding referring to and avoiding considering the legal position laid down in the judicial pronouncement would be viewed seriously and may result in action under the contempt jurisdiction of this Court.”

6. In these circumstances, we deem it proper to dispose of this petition with appropriate directions.

7. The proposal sent by the Petitioners is restored to file. The impugned order dated 24 January 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. The order will be passed as per directions given by this Court in Nitin Tadge's case as stated above.

8. 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.

9. Writ petitions are accordingly disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)