

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16116 OF 2024

Pushpa Bhimrao Patil

....Petitioner

Vs.

The State of Maharashtra and Ors.

...Respondents

Mr. Chetan G. Patil for the Petitioner.

Mr. V. M. Mali, AGP for the State/Respondent Nos.1 , 2, and 5.

Mr. Bhushan S. Jadhav for Respondent Nos. 3 and 4.

CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.

DATE : 12th NOVEMBER, 2024

P.C. :-

1. The Petitioner has put forth prayer clause (a) and (b), as
under:

*“A) That this Hon’ble Court may be pleased to issue a writ of certiorari, or any other appropriate writ, order or direction thereby quashing and setting aside the impugned Order dated 30th November 2022 passed by Respondent No. 2 herein (being **Exhibit “C”** hereto) and further be pleased to direct Respondent No. 2 herein to grant approval to the appointment of the Petitioner on the post of Shikshan Sevak with effect from 15th June 2015 and on the post of Assistant Teacher from 15th June 2018.*

B) That this Hon’ble Court may be pleased to issue a writ of mandamus, or any other appropriate writ, order or direction thereby directing Respondent No. 5 herein to enter the name of the Petitioner in the Shalarth System and further direct the Respondents to release grant in aid for the payment of Monthly honorarium / Salary to the Petitioner with effect

from 15th June 2018 with all consequential benefits.”

2. The Petitioner was before this Court in Writ Petition No.8819 of 2018, seeking approval to her appointment as a Shikshan Sevak. The undisputed factors as were recorded in the order of this Court dated 22nd June, 2022, indicate that an advertisement was published and the Petitioner was appointed on 15th June 2015. The contention of the learned AGP is that the management had issued an advertisement without seeking permission from the Education Officer, without absorbing surplus teachers, and approximately 244 surplus teachers were on the waiting list.

3. In conclusion, this Court noted on the basis of the Affidavit of the Education Officer, that the management had sought permission to advertise the post and had called upon the Education Officer to forward the list of surplus teachers. The Education Officer did not respond to the same and the advertisement was published. This Court finally concluded that the impugned order deserves to be quashed and the Education Officer needs to reconsider the proposal on its own merits and would not reject it on the ground that the

permission of the Education Officer was not obtained or that surplus teachers were not absorbed.

4. By the impugned order, Mr. Eknath Ambokar, the Education Officer, Zilla Parishad Kolhapur has rejected the proposal for granting approval to the appointment of the Petitioner as a Shikshan Sevak, on the following grounds:

- A) Copy of the advertisement was not attached;
- B) No objection of the Education Officer for filling up the post was not taken;
- C) The latest list of incumbent teachers was not tendered;
- D) the latest roster was not submitted.

5. The learned AGP has perused the record and he is instructed to say that the list of the teachers was tendered by the management and the roster as on date of appointment of the Petitioner, was also tendered.

6. In view of the above, it is obvious that the Education Officer has rejected the proposal on frivolous and unsustainable grounds. The factum of publication of the advertisement was

already recorded in the earlier order of this Court, dated 22nd June, 2022. The permission of the Education Officer was sought and he failed to respond, was also recorded in the said order. The two documents referred to above were also before him.

7. Yet the proposal has been rejected. We are, therefore, of the view that this is a fit case for imposing costs on the Education Officer Mr. Eknath Ambokar, considering that an unsustainable order has been passed, despite he having been given guidelines by this Court vide order dated 22nd June, 2022.

8. In view of the above, **the Writ Petition is allowed.**
The impugned order dated 30th November 2022 is quashed and set aside.

9. The Education Officer (Secondary) is directed to issue the order of approval to the appointment of the Petitioner as a Shikshan Sevak, with effect from 15th June, 2015 for a period of three years, until 14th June 2018.

10. The management is at liberty to furnish a fresh proposal

for approval to the Petitioner's engagement as an Assistant Teacher, after having completed three years of the tenure of Shikshan Sevak.

11. If such a proposal is submitted, the concerned Education Officer shall decide the same by carrying out a verification exercise as is prescribed in law, within a period of 45 days.

12. In so far as the costs are concerned, Mr. Eknath Amobkar shall deposit cost of Rs.5,000/- in this Court from his salary bank account. With the consent of the Petitioner, the said amount shall be donated to the Kirtikar Law Library.

13. The Shalarth I. D. for the post of Shikshan Sevak, shall be granted and the Petitioner would be entitled to the scale as is admissible with effect from his engagement as a Shikshan Sevak for the period of three years. Arrears, if any, shall be calculated by the Education Officer and the same shall be paid within a period of 60 days from today.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)

