

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

WRIT PETITION NO. 14059 OF 2024

Sapana Shital Chougule

....Petitioner

V/S

The State Of Maharashtra & Ors

....Respondents

Mr. Ramdas Shelke for Petitioner

Mr. Vikas M Mali, AGP for Respondent Nos. 1 to 3 - State

**CORAM : RAVINDRA V. GHUGE &
M. M. SATHAYE, JJ.**

DATE : 18th OCTOBER, 2024.

P.C.:-

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

“(a) To issue writ of certiorari or any other appropriate writ, order or direction in the like nature and to direct the Respondent Nos. 1 and 4 to consider the proposal of the Petitioner immediately and to grant relaxation in age of appointment and to grant approval to the service of the Petitioner from the date of appointment i.e. from 13/05/2005;

(b) To issue any other appropriate writ, order or direction in that nature to the Respondent Nos. 1 and 4 to grant all the service benefits and other consequential benefits accrued to the service of the Petitioner;

(c) To restrain the Respondent Nos. 1 to 5 during the pendency of the Petition from filing the post of the Petitioner through ‘Pavitra Portal’ and not to take any coercive action

against the Petitioner.”

2. We find, while adverting to the pleadings in the Petition, as under:
- (a) The Petitioner claims to have received an order of appointment on 11/06/2005, issued by the Respondent No. 5 Headmaster, Suyash Primary School. The said appointment order is said to be at page no. 39. The said order is undated and though it is a settled law that the Chairman as well as Headmaster have to sign an appointment order, the said order is signed only by the Chairman.
- (b) An advertisement is said to be at page no. 38 and the name of the newspaper in which the advertisement was published, is not disclosed. The advertisement indicates that interested persons will ‘**walk in**’ to the venue with documents for an interview.
- (c) The Petitioner does not have any approval issued by the statutory authority in relation to her appointment.
- (d) The school in which the Petitioner claims to be working, was conducted by Shri Gomtesh Shikshan Sanstha, with the name

Suyash Prathamik Shala, Nandre, Taluka-Miraj, District-Sangli. The said school was granted the minority status by a communication dated 30/03/2013. On 15/03/2021, the school received 20% grant-in-aid.

(e) The Petitioner claims to have received a **re-appointment order** (undated). The photostat copy placed on record indicates that the appointment order has been issued from 15/06/2012, which is in response to an individual Application made by the Petitioner on 27/05/2012, praying for an appointment order. **No advertisement was published.**

(f) A strange remark is put on the said order in Marathi, which indicates that the Petitioner is being appointed as an Assistant Teacher with effect from 15/06/2012, instead of 13/06/2005. We are intrigued. Accordingly, the Petitioner filed her joining report dated 15/06/2012, as per the document at page no. 44, which is signed by the Headmistress and does not carry the signature of the Petitioner.

(g) On 09/04/2013, the Headmistress addressed a

communication to the Deputy Director of Education, Kolhapur Division praying for relaxing the age of the Petitioner on the pretext that the Petitioner is working in the said school since 13/06/2005. This communication is contradictory to the undated appointment order of the Petitioner, by which, she was re-appointed, with a peculiar remark indicating that her appointment is to be treated from 15/06/2012, and not from 13/06/2005.

(h) The Petitioner's sole contention is that there is a staffing pattern and the Petitioner can be accommodated.

3. We are not entertaining this Writ Petition, primarily for the reasons, more than one. **Firstly**, that none of the purported appointment orders carry dates. **Secondly**, none of the appointment orders carry the signature of the Headmaster and are not issued in accordance with the MEPS Rules, 1981. **Thirdly**, the stamp and the signature of the headmaster appears to have been affixed only to symbolise 'attestation' and not below the appointment order, when there is place for the headmaster to sign below the appointment order. **Fourthly**, there is no approval granted to the appointment of the Petitioner. **Fifthly**, the purported undated appointment

from 15/06/2012, is an attempt by the management to manipulate the records by treating the Petitioner as having been appointed on 15/06/2012, instead of 13/06/2005.

4. In the backdrop of such disputed factors, keeping in view the law laid down by the Hon'ble Supreme Court in *CIDCO vs. Dosu Aardeshir Bhiwandiwalla and others, 2009 (1) SCC 168*, this Writ Petition is dismissed.

(M. M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)