

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

CIVIL WRIT PETITION NO. 4228 OF 2024

- | | | |
|--|---|------------------------------|
| 1) Mrs. Aaradhya Amol Bhise |] | |
| Age: 34 years, Occupation service |] | |
| Residing at Post Mangaon Bazar, Tal:- |] | |
| Kudal, District: Sindhudurga 416519 |] | |
| 2) Lokseva Sangh, Kudal Udyamnagar, Kudal |] | |
| Tal:- Kudal, District: Sindhudurga. |] | |
| 3) Jayprakash Narayan Highschool, |] | |
| Wados, Through its Headmaster Having |] | |
| office at Wados, Kudal, Tal:- Kudal, Dist. |] | |
| Sindhudurga. |] | |
| | | <u>...Petitioner.</u> |

Versus

- | | | |
|---|---|-------------------------------|
| 1) State of Maharashtra, |] | |
| Through Department of Education |] | |
| Having Office at Mantralaya, Mumbai 400 |] | |
| 032 |] | |
| 2) The Deputy Director of Education |] | |
| Kolhapur Division, Kolhapur |] | |
| 3) Education Officer (Secondary) Zilla |] | |
| Parishad, Sindhudurga. |] | |
| | | <u>...Respondents.</u> |

Mr. Mahesh V. Rawool a/w Adv. Manthan S. Bhandigave for Petitioner.
Mr. V. M. Mali, A.G.P., for Respondent Nos. 1 to 3 State.

**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : November 18, 2025.

JUDGMENT (PER : AJIT B. KADETHANKAR, J.)

(1) Heard Mr. Bhavake, learned Counsel for the Petitioners and Mr. Mali, learned AGP for the Respondent Nos. 1 to 3 State. At the instance of the parties, the petition is being finally disposed at admission stage considering the nature of Subject-matter.

(2) SUBJECT MATTER:

(2.1) The Petitioner seeks directions to the Respondent No. 3 to decide the proposal for approval to the Petitioner's services. In view of the limited relief prayed by the Petitioner, we deem it appropriate to dispose of the Writ Petition at admission stage.

(3) FACTS IN BRIEF:

(3.1) The Petition is filed by the Petitioner No. 1-Assistant Teacher, Petitioner No. 2-the Educational Institute/Society and Petitioner No. 3-the School in which the Petitioner No. 1 is serving.

(3.2) The Petitioners submit that as per the staff approval of 2015-16 one additional post of Assistant Teacher was approved for the Petitioner No. 3-School.

(3.3) Pursuant to this, the Petitioner No. 2 sought permission from the Respondent No. 3 to fill up such post. It is further submitted that after following the due procedure, the Petitioner No. 3 appointed the Petitioner No. 1 as "Shikshan Sevak" w.e.f. 1st December 2016 at Petitioner No. 3 School.

(3.4) The Petitioner would further submit that on 12th December 2016 a proposal was filed by the Petitioner No. 2-Management to the Respondent No. 3 seeking approval to Petitioner's appointment.

(4) A covering letter dated 12th December 2016 on such proposal i.e. annexed at page 27 of the Writ Petition paper-book, shows acknowledgment dated 12th December 2016 endorsed by Inward Clerk of Central Receipt Unit of Zilla Parishad, Sindhudurg.

(5) It is further submitted by the Petitioners that on 17th July 2023 the Petitioner No. 2 re-submitted proposal to the Respondent No. 3 seeking approval to Petitioner's services. It depicts from the proposal dated 17th July 2023 that re-submission was made as there was no response from the Respondent No. 3's end on the earlier proposal. The Petitioners would further submit that vide letter dated 12th October 2023 the Respondent No. 3 remitted back the approval proposal to the Petitioner No. 2 and Petitioner No. 3.

(6) Its contended in the impugned rejection letter dtd. 12-10-2023 that as the Petitioners failed to follow the conditions in the Government Resolution dated 10th June 2022, the proposal was remitted back. It is further explained in the letter that the proposal was not filed in the Approval Camp that that was conducted by the Respondent No. 3 within the "three months period" as per Government Resolution dated 10th June 2022, but was submitted on 17th July 2023.

(7) That the proposal could not be honored as it was *de-hors* the mandates of G.R. dated 10th June 2022. The Petition is filed by the Employee as also by the Employer School Management seeking directions to consider the proposal for approval on its merit.

(8) Upon having heard the parties, we find that the proposal dated 17th July 2023 seems to be rejected by the Respondent No. 3 finding it in contravention of point no. 1.4 of G.R. dated 10th June 2022. The fate of non submission of the approval proposal within the given time frame is narrated in the Government Resolution itself.

(9) As such, its now to be seen whether the Petitioner could make out any case for directions for re-consideration of the Proposal.

(10) Petitioner's Argument:-

(10.1) Mr. Prashant Bhavake Id. Counsel for the Petitioner would submit that the Petitioners have already submitted the proposal on 1st September 2016 which is evident from the acknowledgment endorsed by the Office of Respondent No. 3. He would further submit that the Respondent No. 3 seems to be under some mis-understanding that no such submission could be found in the office record.

(10.2) Mr. Bhavake, Id. Counsel further submits that in any case the Petitioners ought to have been given an opportunity of hearing to demonstrate as to how the approval proposal would not come in the teeth of 1.4 clause of Government Resolution dated 10th June 2022.

(10.3) Mr. Bhavake, learned Counsel for the Petitioner would bring to our notice an order dated 9th January 2024 passed by this Court Principal Seat at Bombay in the case of ***Chiplun Education Society, Chiplun & Ors. vs. The State of Maharashtra & Ors*** in Civil Writ Petition No. 116 of 2024, wherein very identical case was considered by this Court. For the sake of convenience the order is recited as follows:

"1. Heard learned counsel for the parties. Petitioners have filed this petition challenging the order dated 20 December 2022 passed by Respondent No. 5-Education Officer. By the impugned order, Education Officer has rejected the proposal, relying on Government resolution dated 10 June 2022 and stating that the same proposal was submitted later than three months and therefore it is being returned. There is no other reason in the impugned order.

2. Government resolution dated 10 June 2022 is on record. It refers to improving procedure for granting approval and inclusion of data in the centralised portal. In clause 1.4 methodology in respect of the appointments made prior to Government Resolution and for those approval is not granted till date of the Government Resolution is laid down. This stipulates that the proposal needs to be submitted within period of 3 months. There is a reference to non consideration of such proposal after period of 3 months.

3. Learned counsel for the Petitioners states that there are justifiable reasons as to why and how limit of three months was crossed stating that proposals were submitted before period of 3 months were not taken cognizance of. This is a factual aspect. Learned counsel for Petitioners is right in contending that if this stipulation was to be put against the Petitioners, had the Petitioners been given an opportunity, this fact would have been explained. Also it is his contention that this clause 1.4 does not apply. Further there is no decision on merits of the submissions of the approval.

4. Prima facie, perusal of the Government Resolution would indicate that such proposals should be submitted within a period of 3 months otherwise grant of approval would relate back

burdening the exchequer and therefore a time limit is provided for. If that be the interpretation of the Government Resolution, suitable orders can be passed in respect of the delay exceeding 3 months. Since this aspect has not been considered and also decision is not taken on merits, we dispose of the Writ Petition as under.

5. The impugned order shall be treated as a show cause notice to the Petitioners and not a rejection order. Respondent-Education Officer within a period of 3 weeks will submit grounds of objections, if any, in respect of the proposal on merits. Upon receipt of the same, Petitioners will submit explanation to the earlier order (show cause notice) and additional grounds, if any. After submission of the explanation, the Education Officer to take appropriate decision within a period of 8 weeks giving reasons, subject to earlier time bound directions. In case Petitioner is to be granted the approval, further consequential steps be taken as per law."

(11) Respondent's argument: -

(11.1) Mr. V. M. Mali, learned Asst.Govt.Pleader would submit that the Respondent No. 3 is justified in remitting back the approval proposal in view of the Government Resolution dated 10th June 2022. He would further submit that the Respondent No. 3 cannot be said to have committed any error while following the mandates of the said Government Resolution. As such the Respondents prayed for dismiss the Writ Petition.

CONSIDERATIONS AND OBSERVATIONS:

(12) We find that Petitioner's case is absolutely identical with the case of Petitioner in the referred order ***Chiplun Education Society, Chipulun & Ors. vs. The State of Maharashtra & Ors*** (supra).

We also observe if an opportunity could be given to the Petitioners, they could justify either that the proposal was well within time or could justify the delay that occurred in filing the proposal.

(13) We see that the impugned order dated 12th October 2023 shows that the Respondent No. 3 has not at all verified or touched the proposal, but except on one count of delay has remitted back the proposal.

(14) In view of this we also take the same recourse that has been adopted by this Court in cited case ***Chiplun Education Society, Chiplun & Ors. vs. The State of Maharashtra & Ors*** (supra). Hence, we pass following order :-

::ORDER::

- A)** Writ Petition is partly allowed;
- B)** The impugned order dated 12th October 2023 be treated as show cause notice to the Petitioners, and not a rejection order. As the proposal is remitted back, the Petitioners shall re-submit the said proposal to the Respondent No. 3 within two weeks from today.
- C)** The Respondent No. 3 shall scrutinize the proposal for approval to the appointment of the Petitioner No. 1 within four weeks thereafter. The Respondent No 3 shall award an opportunity of hearing to the Petitioners on deficiency, if any.

D) The Petitioners in such contingency shall remove the deficiencies within two weeks thereafter. While resubmitting the proposal, the Petitioners are at liberty to add such supporting documents as they feel necessary to substantiate the proposal.

E) Upon compliance of the deficiency the Respondent No. 3 shall pass appropriate order on the approval proposal on its own merits within a period of four weeks thereafter. If the Respondent No. 3 grants approval to the Petitioner No. 1's appointment, Shalarth I.D. be processed accordingly.

F) Needless to mention, if the Respondent No. 3 does not notice any deficiency in the approval proposal, he shall pass appropriate order within Six weeks from the date of receipt of the proposal.

(15) Writ Petition stands disposed of in the above terms.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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signed by
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SHUBHAM
ASHOKRAO
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