

Nikita

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6151 OF 2023

Archana Bapu Sawant and Anr.

...Petitioners

versus

The State of Maharashtra and Ors.

...Respondents

.....

Mr. Chetan Patil i/b Mr. Dilip Shinde a/w Mr. Ruturaj U. Kadam a/w Mr. Mr. Somnath Thengal for the Petitioners.

Mr. V. M. Mali, AGP for the State.

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**CORAM : M.S. KARNIK &
SHARMILA U. DESHMUKH, JJ.**

DATE : 15th OCTOBER, 2025.

ORAL ORDER (PER M. S. KARNIK, J.):

1. Heard learned Counsel for the Petitioners and learned AGP for the State.
2. Our attention is invited by the learned AGP for the State to the affidavit filed by Mr. Rajesaheb Londhe, Education Officer (Secondary), Zilla Parishad, Sangli, to justify the stand taken by the Respondents that the present petition should be dismissed. The petitioner, by this petition, is challenging the order dated 30th November, 2022, passed by the Respondent No.2 refusing the approval to the appointment of the Petitioner No.1 in the Aided School of the Petitioner No.2-management, on the ground of Sanch Manyata.

3. Facts of the case in brief are that the Petitioner No.1 was appointed on 16th July, 2012 as a Shikshan Sevak by the Petitioner No.2, after following the due process. The appointment was made on a post which had fallen vacant due to the promotion of the incumbent teacher to the post of Headmistress after the previous Headmistress retired from service. On 14th September, 2016, the Respondent No.2 issued an order, directing absorption of a surplus teacher on the post in which the Petitioner No.1 was appointed and working. It was treated as vacant post because the appointment of the petitioner was not approved. In the year 2016, since the Petitioner No.1 was working and there was no vacant post, the management refused to allow the surplus teacher to join the school. As a consequence, the Respondent No.2 stopped the salary grant. On 28th November, 2016, the management allowed the surplus teacher to join the service, and therefore the surplus teacher started getting the salary along with other 10 teachers working in the school.

4. On 23rd July, 2018, the Respondent No.2 issued order to repatriate the surplus teacher to his parent school and accordingly the surplus teacher was relieved from the school of the Petitioner No.2 on 24th July, 2018. The surplus teacher has been released by the Petitioner No.2 by issuing letter dated 24th July, 2018 and the discharge certificate was also given to the surplus teacher. During the above period the

Petitioner No.1 was all along working with Petitioner No.2- school. After the repatriation of the surplus teacher, the post became available and therefore proposal of the petitioner was submitted to the respondent No.2 for approval of the appointment by a letter dated 6th August, 2018. On examination of the proposal, various deficiencies were pointed out. By letter dated 17th October, 2022 the Headmistress submitted explanation in respect of all the deficiencies.

5. Respondent No.2, by the impugned order, rejected the proposal only on one ground which mentioned at Sr. No.28 of the first letter dated 10th September, 2022 pointing out the deficiencies, which are at page No.64 of the paper book.

6. We find that so far as the Sanch Manyata is concerned, eleven posts were sanctioned and only 10 teachers were granted approval by the Respondent No.2. There was one sanctioned post of teacher available in the Petitioner No.2-School, when the petitioner No.1 was appointed in the year 2012. The surplus teacher was absorbed for the period from 28th November, 2016 to 24th July, 2018. The surplus teacher was relieved on 24th July, 2018.

7. In such view of the matter, learned Counsel for the Petitioners submits that the Petitioners will not claim the salary grant for the aforesaid period of 28th November, 2016 to 24th July, 2018 and prior thereto. Statement accepted.

8. In our view, as one vacant post is available and as the Petitioner No.1 was appointed after issuance of an advertisement, the petitioner should not be deprived of approval of the appointment. The impugned order is therefore set aside.

9. The Petitioner No.1 has given an undertaking that she would not claim any grant in aid for the payment of salary for the period during which the surplus employee was working.

10. In the peculiar facts and circumstances of the case, though the approval to the appointment of the Petitioner as Shikshan Sevak is granted from 9th July, 2012 but the grant in aid be released from August, 2018. Arrears be paid expeditiously in any case within four months from today.

11. The Shalarth I. D. be issued by the Deputy Director of Education within a period of eight weeks from today.

12. The writ petition is disposed.

[SHARMILA U. DESHMUKH, J.]

[M.S. KARNIK, J.]