

Nikita

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11093 OF 2023

Shreeya Nitin Sawant and Anr.

...Petitioner

versus

The State of Maharashtra and Anr.

...Respondents

Mr. Ashwin R. Kapadnis a/w Mr. Balaji Shinde for the Petitioner.

Ms. T. J. Kapre, AGP for the State.

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

DATE : 7th OCTOBER, 2025.

ORAL ORDER (PER SHARMILA U. DESHMUKH, J.):

1. Heard Mr. Kapadnis, learned Counsel for the Petitioner and Ms. Kapre, learned AGP for the State-Respondent Nos. 1 and 2.
2. By this petition, the challenge is to the order dated 17th April, 2023, passed by the Respondent No.2- Education Officer (Secondary) rejecting the proposal seeking approval to the appointment of the Petitioner No.1 in Petitioner No.2 School.
3. The Petitioner No.1 was duly qualified to be appointed as Shikshan Sevak and as there was vacancy in the school run by Petitioner No.2, by virtue of retirement of an Assistant Teacher, the Headmaster of the school requested the Respondent No.2- Education Officer (Secondary) for permission to fill up the said post by communication dated 5th November, 2018 and 29th September, 2018. A reminder was

again issued on 4th June, 2019. However, there was no response from the Respondent No.2-Education Officer (Secondary). Neither surplus teacher was sent for filling the said post, nor any permission was granted for issuance of advertisement. Consequently, the Petitioner No.2 was constrained to issue an advertisement on 6th June, 2019 which was published in the newspaper, inviting applications for the post of Shikshan Sevak. The Petitioner No.1 being duly qualified applied in response to the said advertisement and was appointed on 30th July, 2019. On 25th August, 2022, the Headmaster of the school submitted a proposal seeking approval to the appointment of the Petitioner No.1 along with all the requisite documents which came to be rejected by the impugned order.

4. Mr. Kapadnis has taken this Court through the impugned order and would submit that without any opportunity being given to the management to cure the deficiencies, which were listed in the impugned order, the proposal came to be rejected. He would further submit that in respect of an identical employee, this Court by order dated 3rd July, 2023, quashed and set aside the rejection order and directed grant of approval. He would submit that the similar course be followed in the present case and approval be granted.

5. Learned AGP would point out the pleadings in the affidavit filed on behalf of the Respondent Nos.2 and 3 and would submit that in

response to the correspondence which was addressed by the Petitioner No.2/Management, the Respondent-State had addressed communication dated 5th November, 2018. She, however, fairly concedes that the affidavit in reply does not deal with the merits of the proposal which was submitted by the management.

6. We have considered the submissions and perused the record. Perusal of the impugned order would indicate that the approval came to be rejected on several grounds of prior permission of the Respondent No.2 not having been taken, non compliance with the procedure prescribed in the Government Resolution 23rd June, 2017 regarding the appointment through Pavitra Portal, the vacancies not been shown, the roster not been verified and TET/CTET certificate not having been submitted. Perusal of the impugned order would show that there are several deficiencies listed in the impugned order. It was therefore necessary for the Respondent No.2 to grant an opportunity to the Petitioner/ management to cure the deficiencies and the proposal could not have been rejected outright. We find that no such opportunity was given and the proposal came to be rejected. We have also perused the order dated 3rd July, 2023, passed by this Court in respect of identically placed employee.

7. The affidavit which has been filed by the Respondent No.2 does not deal with the merits of the Petitioner No.1's appointment and it is

not the case of the Respondent Nos.2 and 3 that the Petitioner No.1 was not duly qualified for being appointed on the said post.

8. Considering that the grounds on which the proposal has been rejected was non submission of certain documents, it would be appropriate if the impugned order dated 17th April, 2023 is directed to be treated as a show cause notice. The Petitioner/ management to submit an explanation / necessary documents in respect of the deficiencies listed within the period of two weeks from today. In event, there is any further deficiency, the same to be communicated expeditiously by the Respondent No.2 to the Petitioner. The Respondent No.2 to take into consideration the explanation/ documents submitted by the Petitioner/ management and also to consider the decision of this Court in Rajan Sahadeo Ratul and Anr. Vs. The State of Maharashtra and Anr. dated 3rd July 2023 in Writ Petition No.1423 of 2021, which shall be placed for consideration of the Respondent No.2 by the Petitioner. After the deficiencies are cured, the Respondent No.2 to take a decision afresh on the said proposal expeditiously and in any event, within the period of four weeks from the date of submission of the explanation.

9. Writ petition stands disposed of in the above terms.

[SHARMILA U. DESHMUKH, J.]

[M.S. KARNIK, J.]