

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12267 OF 2022

Rohini Rangrao Navadaker ... Petitioner

Versus

The State of Maharashtra & Ors. ... Respondents

*Mr. Mandar Bagkar a/w. Mr. Bhushan S. Jadhav for the Petitioner.
Ms. T.J. Kapre, A.G.P. for the Respondent Nos.1 & 2-State.*

Coram : M. S. Karnik &
Sharmila U. Deshmukh, JJ.

Date : 10th October 2025.

ORDER (Per : Sharmila U. Deshmukh, J.)

1. The challenge in the present Petition is to the order dated 25th July 2022 issued by the Respondent No.2 refusing to grant approval to the appointment of the Petitioner on the post of Shikshan Sevak by way of transfer from unaided division to aided division of Respondent No.4-School.

2. The Petitioner possess the requisite qualification of M.A. B.Ed. for Marathi and Politics subject. In the year 2010, as one of the Assistant

Teacher was on leave, the Respondent No.3-Management appointed the Petitioner during the leave period of the said teacher. The Respondent No.2 vide communication dated 4th May 2012 granted approval to the appointment of the Petitioner. Subsequently, the Respondent No.3 appointed the Petitioner in one of its school on clock hour basis which appointment was approved by the Respondent No.2 till the year 2016-2017. On 1st July 2017 the Respondent No.3 appointed the Petitioner in Smt. Kusumtai Rajarambapu Patil Kanya Mahavidyalay, Islampur on unaided basis, which appointment was also approved by the Respondent No.2. In the year 2022, by reason of transfer of a teacher teaching the subject of Politics and Environment, the post of Assistant Teacher became vacant in the aided division of Respondent No.4-School. By a resolution dated 28th June 2022 the Respondent No.3 decided to transfer the Petitioner from unaided post to aided post in Respondent No.4-School. On 18th July 2022 the Respondent No.4-School submitted a proposal seeking approval to the Petitioner's appointment, which came to be rejected by the impugned Order.

3. Learned counsel appearing for the Petitioner submits that the reasons for rejecting the proposal are unsustainable. He submits that the Petitioner had rendered more than five years service in the Respondent No.3-Education Society and the provisions of Rule-9 (2-A) and (2-B) as

regards advertisement under the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (*for short, "Rules of 1981"*) are inapplicable. He would further submit that the Petitioner was appointed by the Respondent No.3 initially in the year 2010 was in Respondent No.4-Junior College and therefore, the requirement of TET was not applicable. He would further submit that the Petitioner was duly qualified for teaching Politics and Environment subject in view of his qualification. He would further submit that one of the reason for rejecting the approval was the roster from the Backward Class Cell was not verified, which is incorrect, as the roster was verified in the year 2019. He would submit that as the Petitioner was transferred from unaided post to aided post, there is no requirement of routing the proposal through the Pavitra Portal. He submits that no opportunity was given to the Management before rejecting the approval on the said grounds, which grounds itself are unsustainable.

4. Learned A.G.P. would support the impugned order and would submit that the reasons for rejection are valid reasons, which does warrant any interference from this Court.

5. We have considered the submissions and perused the record.

6. There is no dispute that the Petitioner is duly qualified for being appointed to the said post having the requisite qualification of M.A.

B.Ed.. The appointment of the Petitioner in the year 2010 on clock hour basis was granted approval by the Respondent No.2, which approval continued until the year 2016-2017, on the unaided post, as also on the part time post in the Respondent No.4-College. By reason of a vacancy in the aided division, the Petitioner came to be transferred from the unaided post to the aided post. As the Petitioner's transfer was not a fresh appointment, there was no question of transfer being routed through the Pavitra Portal, which process is required to be adopted in case of a fresh recruitment.

7. Similarly the rejection on the ground of non compliance of Rule 9 (2A) & (2B) of the Rules of 1981 is unsustainable, as the Petitioner came to be transferred from the unaided post to the aided post and there was no requirement of issuing any advertisement for the same. The Petitioner having been appointed in the Respondent No.4-Junior College, there was no necessity of submitting the TET Certificate. In so far as the verification of the roster is concerned, there is pleading that the roster was verified in the year 2019 and the copy of the roster has been annexed to the Petition.

8. In event, the proposal suffer from any deficiencies by reason of non submission of documents, it was expected that the Respondent No.2 would give an opportunity of hearing to the Petitioner and the

Respondent Nos.3 & 4-Management to cure the deficiencies particularly considering the nature of deficiencies. As the other grounds on which the proposal has been rejected are unsustainable and in so far as the roster is concerned the same is placed on record before this Court, we find that the impugned order rejecting the proposal is unsustainable.

9. *Resultantly*, the impugned order dated 25th July 2022 is hereby quashed and set-aside. The Respondent No.2 is directed to grant approval to the Petitioner's appointment to the post of Assistant Teacher on aided division with effect from the date of his appointment along with all consequential benefits.

10. The Writ Petition is allowed in the above terms.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik, J.]

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