

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

WRIT PETITION NO.1017 OF 2024

Vijay Nivruti Godse ... Petitioner
V/s.
The Chief Executive Officer,
Sangli Zilla Parishad, Sangli and ors. ... Respondents

Mr. Vivek V. Salunke, Advocate for the Petitioner.
Mr. V.G. Badgujar, AGP for the Respondent No.4.
Mr. Vijay Killedar, Advocate for the Respondents No.1 to 3.

**CORAM : NITIN W. SAMBRE &
ASHWIN D. BHOBE, JJ.
DATE : 24th JANUARY, 2025.**

P.C. :

1. Heard.
2. The Petitioner appears to be an employee of the Respondent No. 1 and the Respondent No.2, perhaps is the supervising authority. It is the case of the Petitioner that post his appointment on 2nd February, 2000 as an Assistant Primary Teacher in the school managed by the Respondent No.1, a first child was born to him on 31st January, 2003. The second child was thereafter born on 7th February, 2012 and third child on 29th December, 2015.

Priya Soparkar

3. Apart from above, it is the case of the Petitioner that daughter Vedika was given in adoption vide registered Deed of Adoption dated 26th September, 2023.

4. It appears that the provisions of Maharashtra Civil Services (Declaration of Small Family Rules, 2005) (hereinafter referred to as Rules for sake of gravity) were enacted which prohibits the public employment for a person who has begotten a child after the rules came into effect.

5. The said rules have no retrospective applicability atleast there is no express provision to that effect in the rules.

6. The similar issue was decided by the Division Bench of this Court in the catena of judgments under the provisions of the Village Panchayat Act.

7. Be that as it may, the Respondent No.4-State Government vide a clarification No. Sankirtan-2023/PC.08/Aastha-7 dated 22nd February, 2023 issued to the Jilha Parishad, Gondiya has clarified that the said rules which were notified on 28th April, 2005 will have prospective

applicability and not retrospective.

8. In this background, if we consider the charge framed against the Petitioner, it is apparent that not only the Petitioner is suspended for begotten child after the rules were notified but also a Department Enquiry is initiated.

9. The counsel for the Respondent No. 1 has placed on record communication dated 13th January, 2025 thereby stating that the suspension of the Petitioner is revoked and the Petitioner can resume if not already his duties forthwith.

10. As regards the continuation of inquiry against the Petitioner is concerned, he submits that the Respondent No.1 having regard to the aforesaid observations and the clarification issued by the Respondent No. 4 State Government addressed to Jilha Parishad Gondiya dated 22nd February, 2024 shall immediately rule on the continuation of inquiry as the rules are prospective in nature or retrospective.

11. Let the aforesaid decision be communicated to the Petitioner within a period of four weeks from today.

12. Liberty to the Petitioner to approach afresh, if the order is adverse to his interest.

13. The Petition accordingly stands partly allowed.

(ASHWIN D. BHOBE, J.)

(NITIN W. SAMBRE, J.)

....