

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

WRIT PETITION NO. 9993 OF 2025

Pallavi Sopan Chimankare alias
Pallavi Manoj Nimborkar & Anr. .. Petitioners

Versus

The State Of Maharashtra
Through the Secretary, School
Education Department,
Mantralaya, Mumbai & Ors. .. Respondents

Mr. Vinayak R. Kumbhar a/w Mr. Rajendra B. Khaire, Advocates for
the Petitioners.

Mr. P. P. Kakade, Addl.G.P. a/w Ms P. N. Diwan, AGP for Respondent
Nos. 1 to 3.

**CORAM: SHREE CHANDRASHEKHAR &
MANJUSHA DESHPANDE, JJ.**

DATED : 29th JULY 2025

P.C.:

Being aggrieved by the order dated 12th June 2023 passed by
the respondent no.3- the Education Officer (Secondary), Zilla
Parishad, Thane by which the proposal seeking approval to the
appointment of the petitioner no. 1 as Librarian in the aided
secondary school of the petitioner no. 2 came to be rejected, the
petitioners have approached this Court by filing this writ petition
under Article 226 of the Constitution of India.

2. One of the grounds taken by the respondent no. 3 in the
impugned order while rejecting the proposal forwarded by the
petitioner no. 2 is that there was a ban on making appointments
during the relevant period. To this, Mr. Vinayak R. Kumbhar, the

learned counsel for the petitioners has referred to the decision in Writ Petition Nos.4273 and 4275 both of 2019, wherein this Court held as under:

“17. The respondent No. 2 in the impugned order did not consider the crucial aspect that neither the said Government Resolution dated 23rd October, 2013 nor the Government Resolution dated 12th February, 2015 were applicable to the minority institutions. The Government of Maharashtra itself had issued a subsequent Government Resolution dated 13th July, 2016 after adverting to the judgment of Hon'ble Supreme Court in case of T.M.A. Pai Foundation vs. State of Karnataka (supra) and in case of Secretary, Malankara Syrian Catholic College (supra) and had clearly stated that the minority institutions had to be excluded from the applicability to the section 5(1) of the MEPS Act. It was further stated that if the minority institutions seek permission before recruitment, then permission should be given by following the procedure stated in the said Government Resolution. But if an appointment is made by minority institutions without taking permission then in that case appropriate action shall be taken for granting individual approval to such appointment.”

3. The learned counsel for the petitioners has also referred to an interim order passed by this Court in Writ Petition No. 5058 of 2021 filed by “*Maharashtra Rajya Shaikshanik Prayogshala Karmachari Mahasangh and Anr. V/s State of Maharashtra And Ors.*” with connected matters.

4. Having regard to the nature of deficiencies in the proposal submitted by the petitioner no.2 and the fact that sufficient opportunity was not granted to the petitioner no. 2 to remove those deficiencies, we are inclined to grant indulgence in the matter.

5. The petitioner no.1 was appointed as Librarian on 2nd May 2023 after following the due process. It is pleaded that a proposal was forwarded by the petitioner no. 2 to the respondent no.3 on 29th May 2023 seeking approval to the appointment of the petitioner no.1. The grievance of the petitioners is that the rejection order came to be passed on the ground of deficiencies in the proposal sent by the petitioner no. 2 but without granting sufficient opportunity to the Management to remove the said deficiencies.

6. The main reason why the said proposal forwarded by the petitioner no. 2 seeking approval of the appointment of the petitioner no. 1 is rejected is that necessary documents were not appended with the said proposal. However, the order dated 12th June 2023 was passed without granting opportunity to the petitioner no. 2 to submit necessary documents. Therefore, the rejection order must be held to have been passed in violation of the principles of natural justice.

7. This is well settled that any order whether administrative or quasi-judicial which may ensure serious civil consequences should be passed after observing the rules of natural justice. In the context of the duty of the respondent no.3, we may usefully refer to the observations of Hon'ble Supreme Court in "Canara Bank and Others vs. Debasis Das and Others", (2003) 4 SCC 557 in paragraph 19 of the reported judgment which reads as under:-

"19. Concept of natural justice has undergone a great

deal of change in recent years. Rules of natural justice are not rules embodied always expressly in a statute or in rules framed thereunder. They may be implied from the nature of the duty to be performed under a statute. What particular rule of natural justice should be implied and what its context should be in a given case must depend to a great extent on the fact and circumstances of that case, the frame-work of the statute under which the enquiry is held. The old distinction between a judicial act and an administrative act has withered away. Even an administrative order which involves civil consequences must be consistent with the rules of natural justice. Expression 'civil consequences' encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations, and non-pecuniary damages. In its wide umbrella comes everything that affects a citizen in his civil life."

8. In our opinion, the affected party must be given sufficient opportunity to defend himself but, in this case, the petitioner no.2 was not granted time to remove the deficiencies and, therefore, the impugned order dated 12th June 2023 has been rendered vulnerable. Therefore, the impugned order dated 12th June 2023 passed by the Education Officer (Secondary) is hereby quashed. Four weeks' time is granted to the petitioner no. 2 to forward necessary documents in support of the proposal seeking approval for the appointment of the petitioner no. 1. Thereafter, the respondent no.3 shall consider the stand taken by the Management in relation to the deficiencies reflected in the impugned order dated 12th June 2023 and take a fresh decision on that proposal within next four weeks. While

deciding the proposal forwarded by the petitioner no. 2, the above mentioned decisions relied on by the learned counsel for the petitioners shall be kept in mind by the respondent no. 3.

9. Writ Petition No.9993 of 2025 is disposed of in the above terms.

[MANJUSHA DESHPANDE, J.]

[SHREE CHANDRASHEKHAR, J.]