IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2371 OF 2020

Mrs. Geeta Raju Singh
Aged about 32 Years, Occupation-Service,
R/o. Navdurga Rahiwasi Seva Mandal,
Bhimnagar, Kurar Village,
Malad (East), Mumbai-400 097 .....Petitioner

Versus

1. The State of Maharashtra
Through Secretary Education Department,
Mantralaya, Mumbai

2. The Education Inspector,
Brihan Mumbai, Western Region
I. Y. College Compound,
Jogeshwari (E), Mumbai-400 006
(Through Government Pleader)

3. Trustees of Shri Saraswati Shikshan
Sanstha through Principal Nutan Vidya Mandir
High School.
Bhimanagar, Cutting No.5,
Kurar Village, Malad (East),
Mumbai-400 097.

4. Kistod Rocky Rizorio,
aged about 65 yrs,
Managing Trustee/ President
Saraswati Shikshan Sanstha through its
Secretary of Nutan Vidya Mandir High School,
Bhimanagar, Cutting No.5, Kurar Village,
Malad East, Mumbai 400 097. .....Respondents

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WITH
INTERIM APPLICATION NO. 16573 OF 2022
IN
WRIT PETITION NO. 2371 OF 2020

Mr. Mahendra Jairam Sharma,
Present Secretary since 25/8/2011
of Shree Saraswati Shikshan
Prasarak Sanstha,
Register institution, having office at
Bhim Nagar, Cutting No.5,
Kurar Village, Malad (East),
Mumbai-400 097 .....Applicant/ Intervenor

In the matter between

Mrs. Geeta Raju Singh,
Aged about 35 Years, Occupation-Service,
R/o. Navdurga Rahivashi Seva Mandal,
Bhim Nagar, Kurar Village,
Malad (East), Mumbai-400 097 .....Petitioner

Versus

1. The State of Maharashtra
Through the Secretary Education Department,
Mantralaya, Mumbai-400 032

2. The Education Inspector,
Brihan Mumbai, Western Region
I. Y. College Compound,
Jogeshwari (E), Mumbai-400 060
(To be served through Government Pleader)

3. Trustees of Shree Saraswati Shikshan
Sanstha through Principal Nutan Vidya Mandir
High School.
Bhima Nagar, Cutting No.5,

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Kurar Village, Malad (East),]
Mumbai-400 097].....Respondents

WITH
INTERIM APPLICATION NO.9448 OF 2025
IN
WRIT PETITION NO. 2371 OF 2020

Mr. Santosh Raju Singh]
Aged about 40 years, Occupation : Service]
R/o Navdurga Rahiwasi seva Mandal,]
Bhimanagar Kurar Village,]
Malad-East Mumbai 400097].....Applicant

In the matter between]
Mrs. Geeta Raju Singh,]
Aged about 38 Years, Occupation-Service,]
R/o. Navdurga Rahiwasi Seva Mandal,]
Bhimnagar, Kurar Village,]
Malad (East), Mumbai-400 097].....Petitioner

Versus

1. The State of Maharashtra]
Through Secretary Education Department,]
Mantralaya, Mumbai]
]
]
2. The Education Inspector,]
Brihan Mumbai, Western Region]
I. Y. College Compound,]
Jogeshwari (E), Mumbai-400 006]
(Through Government Pleader)]
]
]
3. Trustees of Shri Saraswati Shikshan]
Sanstha through Principal Nutan Vidya]
Mandir High School.]
Bhima Nagar, Cutting No.5,]
Kurar Village, Malad (East),]
Mumbai-400 097].....Respondents

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Mr. B. S. Nayak, for the Petitioner.

Mr. Jitendra Gautam, for the Applicant in IA/16573/2022.

Ms. Kavita N. Solunke, Addl. G. P., for the Respondent-State.

Ms. Sulakshana Survase, for the Respondent No.3-Management.

Mr. Neel Pungliya a/w Mr. Balaji R. Rane, for the Respondent No.4.

.....

CORAM : M. S. KARNIK &
SANDESH D.PATIL, JJ.

RESERVED ON : 13th AUGUST 2026
PRONOUNCED ON : 03rd SEPTEMBER 2026

JUDGMENT [PER SANDESH D. PATIL, J.] :-

1. By the present Petition, the Petitioner is seeking quashing and setting aside of the Order dated 11th February, 2019 (inadvertenly mentioned in Writ Petition as 22nd February, 2019) passed by the Respondent No.2 and also seeking directions against the Respondent Nos. 1 and 2 to grant approval to the Petitioner with effect from 16th February, 2012. By virtue of an amendment, the Petitioner is seeking back wages with effect from 16th February, 2015 from the Respondent No.3.

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2. The case of the Petitioner is that on 16th February, 2012, she had joined the Respondent No.3-institution as Shikshan Sevak and was qualified as B.A.B.Ed. Despite the completion of three years of service, the Petitioner was not made permanent as a teacher. The Petitioner was appointed after following due process of law. The Petitioner was working as a teacher continuously since the date of the Petitioner's appointment. Although the Petitioner had intimated the Principal to send the proposal for approval, the proposal was infact sent on 21st December, 2018 by the Petitioner herself. After the appointment of the Petitioner, two more teachers were appointed by the institution and granted approval by the Education Officer. However, approval was not granted to the Petitioner. It is contended that there were disputes between the management of the Trust, and the Petitioner was made a victim of the said dispute.

The Education Officer has filed reply for himself and for Respondent Nos.1 and 2. It was mentioned in the reply that the Petition was not maintainable. It was stated that the Order dated 11th February, 2019 (impugned Order) rejecting the approval of the Petitioner was a reasoned Order and required no interference. Much

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stress was laid on the fact that the management had forwarded the proposal for approval to the appointment of the Petitioner almost after seven years. It was stated that there was a backlog in reserved categories, inspite of the said backlog, the Petitioner who is from open category was appointed. The appointment of Petitioner as Shishan Sevak was not as per roster. The action on the part of the Respondent No.3 was contrary to Rule 8(2) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. It was further stated that, at the time of hearing before the Respondent No.2 neither the management nor the Petitioner could submit work load of the Petitioner during the period 2012-2018. They contended that the Petition therefore, be dismissed. A rejoinder is filed by the Petitioner to the said affidavit.

3. The Respondent No.3 has also filed a reply. The reply stated that this school was 100% aided and therefore, it was responsibility of the Government to pay the back wages to the teachers and that such burden cannot be fastened on the management. It was stated that vide letters dated 21st February, 2019 and 27th February, 2019, the Respondent No.3 had offered explanation for the observations of

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the Education Officer in its Order dated 11th February, 2019 and requested to reconsider the case of the Petitioner. It was stated on oath that although it was stated by oversight in the earlier letter that the Petitioner was not given work by the Principal, but the same was clarified in a subsequent letter stating that the Petitioner was working continuously in the school. The management has given an undertaking to fill in the backlog as and when vacancy arises. The said Respondent No.3 thus supported the case of the Petitioner.

4. The Respondent No.4 has also filed an affidavit stating that the management had published advertisement for the post of teacher in the Vrutta Mitra newspaper dated 14th February, 2012. Several applications were received. Ultimately the Petitioner was appointed as Shikshan Sevak in the 100% government aided secondary school. The Headmaster Mr. Nathu Bapu Gajare submitted the proposal seeking approval of the Petitioner's appointment as a Shikshan Sevak to the Respondent No.2. In the meanwhile, the Petitioner completed three years of her services as a Shikshan Sevak and the school appointed her on regular basis as an Assistant Teacher. The Head Master Mr. Nathu Bapu Gajare was supposed to submit the proposal

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seeking approval of the Petitioner's appointment as an Assistant Teacher to the Respondent No.2. It is further stated in the affidavit that, several complaints were received by the management-Respondent No.4 against the then Headmaster Mr. Nathu Bapu Gajare. The management issued Show Cause Notice to him for various acts of misconduct, a departmental inquiry was initiated against him, ultimately due to ill-health the said Headmaster took voluntary retirement with effect from 30th June, 2018.

It is further stated that, later on one Mr. Badrinath Hruday Tiwari was appointed as Headmaster of the School. While assuming that charge, he found that the proposal dated 23rd April, 2018 seeking approval of the Petitioner's appointment as a Assistant Teacher and signed by the former Headmaster Mr. Nathu Bapu Gajare has not been submitted to the Respondent No.2. He therefore, immediately submitted the pending proposal to Respondent No.2 on 7th December, 2018. The said Respondent No.4 submitted that it was the Headmaster who was supposed to make submissions for approval and that the then Headmaster had grossly neglected his duty. The Respondent No.4 in short supported the case of the Petitioner.

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5. We have heard the learned Counsel appearing for the parties. We have perused the records. It appears that there is a dispute in the management of the Trust as a result of which the present chaos has arisen. The Petitioner joined the Respondent No.4-Instituion as a Shikshan Sevak on 16th February, 2012. She was qualified as B.A.B.Ed. The Petitioner completed the period of three years on 16th February, 2015. However, the proposal was submitted for approval to the Respondent No.2 on 21st December, 2018. The Respondent No.4 has given a detailed explanation as to what was the reason that caused the delay in sending the proposal. The said explanation is noted by us in the foregoing paragraphs. The impugned Order dated 11th February, 2019 was passed for the following reasons:

(i) The Petitioner was not employed by the management on 16th February, 2012 yet the management had created false documents and had submitted the proposal.

(ii) There was no workload assigned to the Petitioner.

(iii) Assuming the Petitioner was appointed in the year 2012 yet there is no explanation as to why the proposal was not

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submitted till the year 2018.

(iv) The Headmaster Mr. Nathu Gajare has stated that he has not signed on the proposal of the Petitioner.

(v) The backlog of appointment was not fulfilled by the Respondent No.4 and that by ignoring the backlog the appointment was made.

The above are the five reasons on which the proposal was rejected.

6. As far as the first reason of submitting a false proposal is concerned, there is nothing on record to show that false documents were submitted. As a matter of fact, the Respondent Nos.3 and 4 both have supported the case of the Petitioner. The conclusion reached by the Education Officer-Respondent No.2 is totally devoid of any reason and therefore perverse.

7. As far as the second contention that, there was no workload assigned to the Petitioner is concerned, this finding is also totally perverse. There is no reason given by the Respondent No.2 for

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arriving at such finding as a matter of fact, the Petitioner as well as Respondent Nos.3 and 4 have produced voluminous documents to show that there was workload. It appears that the Respondent No.2 was swayed away by a stray statement made by the Respondent No.4 that there was no workload. The Respondent No.4 immediately filed a clarification saying that, it was the mistake inadvertently made. In such circumstances there is nothing to support the finding on this issue.

8. As far as the issue of late submission of the proposal is concerned, the Respondent No.4 has given a detailed reason as to why the submission was made belatedly after a period of three years. In any event, the employee of the school is not to be blamed for late submission of the proposal. As stated above, there was a dispute between the management and therefore, mere belated submission of the proposal cannot be attributed as a reason for rejecting the proposal of the teachers.

9. So far as the reason that the proposal was not signed by the Headmaster-Mr. Nathu Bapu Gajare is concerned, affidavit of the Respondent No.4 on this point is very elaborately explaining the

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circumstances. There was a dispute between the management and ultimately, Headmaster Mr. Nathu Bapu Gajare opted for voluntary retirement. Even otherwise there is an appointment letter dated 16th February, 2012 annexed to the Petition. There is a resolution passed by the management. In these circumstances, it would be totally inappropriate to rely upon the statements of the parties to the dispute, mainly Mr. Nathu Bapu Gajare who allegedly stated that he had not signed the proposal of the Petitioner. In any event, the fact that the proposal of the Petitioner was forwarded is not disputed. The affidavit of the Respondent No.4 also shows that the proposal of the Petitioner was forwarded ultimately by the new Headmaster Mr. Badrinath Tiwari.

10. As far as the last reason regarding backlog is concerned, the position is no more *res integra.* This Court has in the matter of ***Namita Narayan Jha Vs. Education Officer, (Secondary) Zilla Parishad, Gondla & Ors.***[1] has held that mere existence of a reserved category backlog cannot be used as a valid ground by the Authority to deny approval to the candidate appointed in open category.

1 2014 SCC OnLine Bom 1605

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11. Thus, none of the reasons which are given in the impugned Judgment and Order can be sustained. The impugned Judgment and Order therefore, requires interference at the hands of this Court. We therefore proceed to pass the following Order:

ORDER

(i) Writ Petition No.2371 of 2020 is allowed.

(ii) The impugned Order dated 11th February, 2019 rejecting the approval of the Petitioner is not in consonance with the provisions of the MEPS Act and Rules made thereunder. The same is accordingly quashed and set aside.

(iii) The Respondent-State is directed to forthwith allow the proposal and grant approval to the appointment of the Petitioner with effect from 16th February, 2012.

(iv) The salary of the Petitioner along with backlog wages to be paid to the Petitioner within a period of eight weeks from passing of this Order.

(v) Accordingly, Writ Petition No.2371 of 2020 is disposed of.

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(vi) In view of disposal of Writ Petition, connected Interim Application Nos.16573 of 2022 and 9448 of 2025 also stands disposed of.

(SANDESH D.PATIL, J.) (M. S. KARNIK, J.)

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