

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4452 OF 2014

Mallappa s/o Sangram Chandeshware
age 35 years, occu. Service,
r/o Balur, Tq. Aurad, Dist. Bidar.

..PETITIONER.

VERSUS

1. The State of Maharashtra,
through its Secretary,
School Education Department,
Mantralaya, Mumbai -32.

2. The Deputy Director of Education,
Latur Division, Latur.

3. The Education Officer (Secondary),
Zilla Parishad, Latur.

4. The Nath Sikshan Prasarak Mandal,
Borol, Tq. Deoni, Dist Latur,
through its Secretary.

5. Kai. Yeshwantrao Chavan Vidyalaya, Borol,
Tq. Deoni, Dist. Latur
through its Head Master.

6. Ashok s/o Bhaurao Deshmukh,
age 55 years, occu. Agril. And trustee,
r/o Borol Tq. Deoni,
Dist. Latur.

..RESPONDENTS

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Mr.Patil Indrale Anand V., Advocate for Petitioner.
Mr.A.V. Deshmukh, AGP for respondents 1 to 3.
Mr.G.N. Kulkarni, Advocate for R.No.5.
Mr.R.S. Shinde, Advocate for R.No.6.

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**CORAM : S.S. SHINDE &
A.M. BADAR, JJ.**

Reserved on : 23.09.2015

Pronounced on : 01.10.2015.

JUDGMENT: [Per S.S.Shinde, J.]:

1. Rule, returnable forthwith. By consent of the parties, taken up for final hearing at admission stage itself.

2. This petition taxes exception to the order dated 13th May, 2014 and also the report dated 2nd May, 2015 prepared by the Education Officer (Secondary), Zilla Parishad, Latur, which is placed on record of this petition.

3. The learned Counsel for the petitioner invited our attention to the pleadings and grounds taken in the petition and submitted that, the petitioner was appointed on the post of Peon in accordance with law and he being working on the said post had been rightly granted approval. The hearing conducted by the Education Officer was without hearing the petitioner. Even, the report submitted by the Education Officer on 2nd May, 2015 on the record of this petition has been hurriedly prepared, without verification of

the record. Therefore, according to the Counsel for the petitioner, petition deserves to be allowed.

4. On the other hand, learned AGP appearing for the respondents No.1 to 3 invited our attention to the affidavit-in-reply filed on behalf of respondents 1 to 3 and submitted that the order 21st January, 2011 having Outward No.Jipala/Masha/Krya-2, Camp/57/2011 is not finding place in the outward register in the office of deponent and such type of proposal is not available in the office and, therefore, he submitted that the order passed by the Education Officer and also the report submitted on record is in conformity with the office record. He therefore, submitted that the petition may be rejected.

5. Learned Counsel for the respondents No.4 and 5 also invited our attention to the affidavit-in-reply and submitted that appropriate orders may be passed.

6. We have heard learned Counsel for the petitioner, learned AGP for respondents No.1 to 3 and learned Counsel for respondent No.4 and 5. It appears from perusal of the

impugned order that, the said order has been passed after perusal of the office record maintained by the Education Officer (Secondary), Zilla Parishad, Latur. Even, as ordered by this Court, on 6th May, 2015 the report has been placed on record by the respondent No.2. Upon conjoint reading of the contents of the impugned order, affidavit-in-reply filed on behalf of respondents 1 to 3 and the report placed on record, it clearly emerges that, the order dated 21st January, 2011 of which reference is already made herein before, it appears that such type of outward number or proposal is not available in the office of the Education Officer (Secondary), Zilla Parishad, Latur. Therefore, the impugned order and the report submitted on record are based upon the official record maintained by the Education Officer. Therefore, while exercising writ jurisdiction, it is not possible for this Court to interfere in the impugned order and hold that the appointment letter issued to the petitioner was in accordance with law and even, approval granted was in conformity with the procedure established.

However, we grant liberty to the petitioner to approach the Deputy Director of Education, Latur by making

a comprehensive representation within four weeks from today for redressal of his grievance. Upon receiving such a comprehensive representation, the Deputy Director of Education, Latur, after verifying the record from the office of the Education Officer (Secondary), Zilla Parhshad, Latur, shall find out the correctness of the impugned order passed by the Education Officer (Secondary), Zilla Parhshad, Latur. In case, the order impugned is in conformity with the office record, the Deputy Director of Education, Latur need not proceed further. In case, the order passed by the Education Officer (Secondary), Zilla Parhshad, Latur is contrary to the record, the Deputy Director of Education, Latur to issue necessary directions to the Education Officer (Secondary), Zilla Parhshad, Latur for rectification / correction of the earlier order.

7. With the above observations, petition is partly allowed and the same stands disposed of. Rule made absolute in above terms. No order as to costs.

[A.M. BADAR, J.]

[S.S. SHINDE, J.]