

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 318 /2015

(Shri anand s/o Devidasrao Jadhav cs. The Regional Deputy Commissioner, Social Welfare
Department and others)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

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Shri G.R.Sadar, Advocate for the petitioner
Shri D.B.Patel, Asst. Government Pleader for Respondent Nos.1 & 2
Shri D.PDapurkar, Adv.h/for Shri VA.Kothale, Adv.for Res.Nos.3 and 4

CORAM : **SMT. VASANTI A. NAIK &
A.I.S. CHEEMA, JJ.**

DATED : **20th October, 2015.**

Heard.

By this Petition, the petitioner seeks a direction to the respondents to grant approval to the appointment of the petitioner, on the post of Physiotherapist, in the respondent no.4-School, with effect from 27.12.2005.

In pursuance of an advertisement issued by the respondent no.4, in the year 2005, according to the petitioner, he was appointed on the post of Physiotherapist, by an order dated 27.12.2005. It is the case of the petitioner that the petitioner made several representations to the

respondents seeking approval to his appointment; but they were not favourably considered. It is stated that the proposal of the petitioner was returned in the year 2008, on the ground that the petitioner was not eligible for appointment on the post of Physiotherapist, at the time of his appointment.

Shri D.B.Patel, the learned Assistant Government Pleader appearing on behalf of the Social Welfare Officer, submitted that the proposal of the petitioner was rejected in the year 2008 and the Social Welfare Officer had informed the Management, on 25.3.2008, that the petitioner could not have been appointed on the post of Physiotherapist. It is stated that the appointment of the petitioner was not made after following the due procedure for recruitment. It is stated that the respondent-Management had not secured prior permission/ no objection, from the Social Welfare Officer, before filling up the post of Physiotherapist. It is stated that the petitioner had passed the Secondary School Certificate examination, but did not possess a Degree or a Diploma in the relevant subject, at the time of his appointment. It is stated that the respondents refused to grant approval to the appointment of the petitioner as the petitioner was not qualified and the permission of the Social Welfare Officer was not secured by the Management, before filling the post.

On hearing the learned counsel for the parties and on a perusal of the relevant rules as also the affidavit-in-reply filed on behalf of the Social Welfare Officer, it appears that a direction cannot be issued to the respondents to grant approval to the appointment of the petitioner in the circumstances of the case. Admittedly, the petitioner was not possessing either a Degree or a Diploma at the time of his appointment, in December, 2005. It is admitted by the learned counsel for the petitioner that the petitioner had secured the Diploma after his appointment. The qualification for appointment on the post of Physiotherapist is Degree or diploma in the relevant subject. Since admittedly, the petitioner did not possess the requisite qualifications for being appointed on the post of Physiotherapist, the respondents did not commit an error in refusing to grant approval to the appointment of the petitioner. Also, we find that though the appointment of the petitioner is made in the year 2005, the petitioner has filed the Writ Petition in the year 2015, seeking a direction to the respondent-Social Welfare Officer to grant approval to the appointment of the petitioner from 2005. The petitioner ought to have challenged the order of the Social Welfare Officer, dated 25.3.2008, within a reasonable time.

In the circumstances of the case, the Writ
Petition is dismissed, with no order as to costs.

JUDGE

JUDGE

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