

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

WRIT PETITION NO.2879 OF 2015

Sachin Dashrath Pawar,
Age 32 years, Occu. Service,
R/o. C/o. Sarvodaya Vidya Mandir
Secondary and Higher Secondary School,
Rajur, Taluka Akole, District Ahmednagar.

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Department of Secondary Education,
Mantralaya, Mumbai.
2. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar.
3. Satyaniketan, Rajur,
Taluka Akole, District Ahmednagar,
Through its Secretary.
4. Sarvodaya Vidya Mandir Secondary
& Higher Secondary School, Rajur,
Taluka Akole, District Ahmednagar
Through its Head Master.
5. Smt. Meena Shivaji Gade,
Age Major, Occu. Service,
r/o. c/o. Sarvodaya Vidya Mandir
Secondary & Higher Secondary School,
Rajur, Taluka Akole, District Ahmednagar.

...RESPONDENTS

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Mr. Jadhavar Santosh S., Advocate for Petitioner.
Mr. S.B.Yawalkar, learned AGP for Respondent State:
Mr.Bhalerao R.D., Adv., for R/3 and 4.
Mr.Bhavar Nitin R, Adv., for R/5.

**CORAM: S.S.SHINDE
AND
P.R.BORA, JJ.**

DATE :February 8th, 2016

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ORAL JUDGMENT: (Per S.S.Shinde, J.)

1. Heard. Rule. Rule made returnable and heard forthwith with the consent of learned Counsel for the parties.

2. This petition takes exception to the communication dated 11th June, 2014, issued by the Education Officer, Secondary, Zilla Parishad, Ahmednagar, addressed to the Secretary, Satyaniketan, Rajur, Taluka Akole, district Ahmednagar, and also, to the communication dated 7th January, 2015, addressed to the Secretary / President / Honourary Secretary, etc. Satyaniketan, district Ahmednagar, issued by the Education Officer, Secondary, Zilla Parishad, Ahmednagar.

3. Heard the Counsel appearing for the parties at length. Perused the documents placed on record. It appears that, in the impugned communication dated 11th June, 2014, approval to the appointment of the petitioner on the post of Laboratory Assistant has been refused on the ground that petitioner does not possess the qualification of H.S.C. Upon perusal of the relevant qualifications mentioned in the Schedule

under the Rules of M.E.P.S. Rules, 1981, the qualification mentioned is S.S.C., and there is no requirement of H.S.C. In that view of the matter, the said impugned communication stands quashed and set aside.

4. So far as approval granted to respondent no.5, as a Laboratory Assistant is concerned, the appointment of respondent no.5 is subsequent to the petitioner. The petitioner was appointed in the year 2008 as a Laboratory Assistant, however, the proposal for approval could not be considered by the respondent authorities in view of some litigation pending before the Industrial Court and the School Tribunal. In that view of the matter, and the fact that respondent no.5 was appointed in the year 2011, on the post of Peon, in our opinion, the Education Officer, Secondary, respondent no.2, should have kept in view the appointment of the petitioner, and also the other record maintained by the respondent institution, and then only question of approval to the services of the petitioner, or respondent no.5, ought to have been considered by the respondent Education Officer.

5. In that view of the matter, the said office order / communication dated 7.1.2015 (Exh.L - Page No. 54), granting approval to respondent no.5 on the post of Laboratory Assistant shall stand quashed and set aside. We direct respondent no.2

to reconsider the issue of approval in case of the petitioner and also respondent no.5, as expeditiously as possible, however, within six weeks from today, and take decision. We make it clear that respondent no.2 shall keep in view entire record maintained by respondent nos. 3 and 4 institution, the length of service of the petitioner, and also respondent no.5. However, respondent no.2 shall not press the ground that the petitioner does not possess H.S.C. The entire exercise is to be done within six weeks from today.

Respondent no.2 to hear the petitioner as well as respondent no.5 and respondent nos. 3 and 4 on 22nd February, 2016, or in case it is not convenient to hear the parties on the same date, fix the further date after one week for hearing, however, the entire process should be completed, including decision, as expeditiously as possible, however, within six weeks from today. Needless to observe that, the interim relief granted by this Court during the pendency of this petition shall remain in force till the decision is taken by the Education Officer.

The petition stands disposed of on above terms. Rule made absolute in above terms. Parties to act upon the authenticated copy of this order.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

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