

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

WRIT PETITION NO. 7225 OF 2015

Khule Prakash s/o Namdeo
Age 34, Occ. On employed,
r/o Kolhewadi,
Tq. Sangamner, Dist. Ahmednagar.

...PETITIONER

VERSUS

1. State of Maharashtra
Through its Principal Secretary
of School Education & Sports Dept.
Mantralaya Extension, Mumbai - 32
2. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar.
3. Sahyadri Bahujan Vidya Prasarak Samaj,
At & Post - Sangamner,
Tq. Sangamner, Dist. Ahmednagar,
Through its - Secretary.

...RESPONDENTS

...
Mr. S.T.Shelke, Advocate, h/f Mr. S.S.Wagh, Advocate for the
petitioner.
Mr. A.G.Magre, AGP for respondent State.

Mr. Sk.Wajeed Ahmed, Adv., for respondent no.3.

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**CORAM: S.S.SHINDE
AND
RAVINDRA V.GHUGE, JJ.**

DATE : February 2nd, 2016

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 inter se communication between the Education Officer, Secondary, Zilla Parishad, Ahmednagar, to the Secretary, Sahyadri Bahujan Vidya Prasarak Samaj, Sangamner, district Ahmednagar, and consequential termination of the petitioner.

3. Learned Counsel appearing for the petitioner submits that, the reason assigned for not granting approval to the appointment of the petitioner on compassionate ground is unsustainable in view of the corrigendum, dated 2nd May, 2014, to the Government Resolution dated 1st of March, 2014. Relevant portion from the Government Resolution dated 2nd May, 2014 is quoted here-in-below :

“१) शासन निर्णय, सामान्य प्रशासन विभाग, क्रमांक.

अकंपा-१०१४/प्र.क्र.३४/आठ, दिनांक ०१/०३/२०१४ शासन पुरक पत्र:

संदर्भाधीन शासन निर्णयातील पहिल्या परिच्छेदातील ” या वाढीव

मर्यादेचा एक वर्षानंतर फेरआढावा घेण्यात यावा” या वाक्यानंतर पुढील

परिच्छेद वाचावा :

“अनुकंपा तत्वावरील पदे सन २०१२ या भरती वर्षापासुन गट “क”
आणि “ड” मधील प्रती वर्षी रिक्त होणाऱ्या पदांच्या १०% मर्यादेत
भरण्याची कार्यवाही सर्व नियुक्ती प्राधिकाऱ्यांनी तात्काळ करावी.”

He submits that, by way of issuing said corrigendum, liberty was granted to make appointment on Class C and Class D posts from the year 2012. Therefore, according to the Counsel appearing for the petitioner, the reasons assigned in the impugned communication, are contrary to the corrigendum to the Government resolution dated 1st of March, 2014, referred here-in-above. The learned Counsel appearing for the petitioner also invited our attention to the order passed by the Division Bench of this Court in the case of **Vilas Dashrath Gunjal Vs. The State of Maharashtra and others** in Writ Petition No.5434 of 2014, dated 8th August, 2014, and submits that same issue was considered by this Court and it is observed in paragraph No.6 that, the Education Officer shall consider the case of the petitioner for grant of approval and shall not reject the same on the ground that there was ban to appoint employees.

4. On the other hand, learned A.G.P. appearing for the State, relying upon the averments made in the affidavit in reply, submits that the reasons assigned in the impugned communication are in consonance with the Government policy and, therefore, the petition may be rejected.

5. We have heard the Counsel appearing for the petitioner, learned A.G.P. for respondent State and the State authorities, and with their able assistance, perused the pleadings in the petition, annexures thereto, affidavit in reply filed by respondent no.2 and, in particular, corrigendum dated 2nd May, 2014, and also the order passed by Division Bench of this Court in the case of **Ujjwala w/o Madhukar Kolhe Vs. Sahyadri Bahujan Vidya Prasarak Samaj** in Writ Petition No.5732/2014, dated 9th February, 2015. In view of the corrigendum issued by the State Government granting liberty to go ahead with the appointment on compassionate ground, on the posts of Class C and Class D employees, in our opinion, the reasons assigned in the impugned communication that there is a ban by the State Government on recruitment, cannot sustain.

In that view of the matter, we direct respondent no.2 to re-consider the proposal for approval of the petitioner's services, without raising the ground that there is a general ban

on the recruitment, and take a decision on the said proposal, keeping in view the relevant Rules and procedure, as expeditiously as possible, however, within four weeks from today.

The petition is partly allowed. Rule made absolute on above terms. Petition stands disposed of.

(RAVINDRA V.GHUGE)
JUDGE

(S.S.SHINDE)
JUDGE

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AGP/7225-15wp