

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2385 OF 2015

(Kelapur Education Society thr. its Secretary Narsinghrao Ragholu Saturwar & Ors. vs. State of Maharashtra thr. its Secretary to Secondary Education Department & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
APRIL 12, 2016.**

Heard Shri R.L. Khapre, learned counsel for the petitioners and Mrs. A.R. Taiwade, learned AGP for the respondents.

Shri Prashant Gode, learned counsel appears for the intervenor in C.A. No. 608 of 2016.

The grievance of the petitioners is though the petitioner Nos. 2 & 3 have joined employment and a proposal for grant of approval to their services has been forwarded on 20.08.2014 separately, as yet, no decision upon it is taken. The prayer, therefore, is to quash and set aside the Government Resolution dated 20.06.2014 which prescribes procedure to be adopted while filling in the post and while considering grant of approval to the appointments made. Second prayer is to direct Respondent No. 4 – Education Officer to consider the proposals filed by petitioner No. 1 – Management, in accordance with Government decision dated 06.02.2012.

Civil Application No. 608 of 2016 is taken out by one Wasudeo Kaoduji Shendre, who claims to be an Elected

Secretary of Petitioner No. 1 and points out that a change report about said election is pending with the Assistant Charity Commissioner at Yavatmal. He is opposing the petition.

The learned AGP is relying upon the reply affidavit filed by Respondent No. 4. The said Respondent No. 4 is present Education Office, viz., Chntaman Gulabrao Wanjari. He has pointed out the errors and mistakes committed by his predecessor while permitting Petitioner No. 1 to proceed to advertise the vacancies. According to him, as no steps to verify availability of surplus Clerks were taken, the recruitment itself is bad. He has pointed out that such surplus Clerks are in fact available.

After hearing the respective counsel, we find that Shri Wanjari has pointed out that a proposal for initiating disciplinary action against the then Education Officer Shri S.G. Wasave has already been forwarded to the Chief Executive Officer, Zilla Parishad, Yavatmal.

The permission given to recruit is not in dispute. In this situation, if there was any error or fraud while granting such permission to recruit, the decision about it cannot be taken without extending an opportunity of hearing to the petitioners. Not only petitioner No. 1 – management but also petitioner Nos. 2 & 3, who are recruited in pursuance of said recruitment process, should also be extended an opportunity of hearing.

In this situation, without observing anything on merits of the controversy, we direct Respondent No. 4 to proceed to hear the petitioners and take suitable decision on

their proposal.

The petitioners shall appear before Respondent No. 4 on 29.04.2016 and Respondent No. 4 shall take suitable decision upon the proposal within next eight weeks.

As the recruitment has been made in School, dispute inter-se amongst the Trustees or members of Management Committee is not relevant and, therefore, we reject Civil Application No. 608 of 2016.

Keeping all rival contentions open and with these directions, we dispose of the present writ petition. However, there shall be no order as to costs.

JUDGE

JUDGE

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