

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

WRIT PETITION NO.2792 OF 2015

Late Shri Vitthalraoji Chamat Smruti Sewa Sanstha, Nagpur and anr

..vs..

The Education Officer (Secondary), Zilla Parishad, New Akashwani Chowk, Nagpur and
ors

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

Court's or Judge's Order

Shri A.M. Ghare, counsel for the petitioners.
Shri Anand Parchure, counsel for R-4.
Shri N.S. Rao, AGP for R-1 & 3.

**CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA K. JAIN, JJ.**
DATED : JULY 25, 2016.

Heard learned counsel Shri A.M. Ghare for
the petitioners, learned counsel Shri Anand Parchure for
respondent No.4, and learned Assistant Government
Pleader Shri N.S. Rao for respondent Nos.1 and 3.

After hearing respective learned counsel for
the parties, on 28.6.2016, we have passed the following
order:-

*“The learned Assistant Government
Pleader is seeking time to file reply to
the amended portion.*

*The question is why the approval came
to be rejected to the appointment of
petitioner no.2 on 27-01-2016.*

The said order mentions that petitioner

No.2 was not appointed in accordance with Rule 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. The petitioner no.2 is disputing this.

We, therefore, direct the respondent No.1 to file appropriate affidavit on the amendment as also on this challenge, within two weeks.

Place the matter for further consideration on 18-07-2016, as a last chance.”

Accordingly, additional affidavit has been filed by respondent No.1.

During arguments, learned counsel Shri A.M. Ghare for the petitioners pointed out that the reason for rejection of approval, contained in impugned order dated 27.1.2016, is factually incorrect. The advertisement and resolution of school committee were duly submitted with proposal. He points out that there is assertion in this respect in the petition.

Learned counsel Shri Anand Parchure for respondent No.4 submits that this is a third round of litigation and whether documents are available on record or not is to be clarified by respondent No.1/3.

Learned Assistant Government Pleader Shri N.S. Rao for respondent Nos.1 and 3 submits that, as

directed by this Court on 28.6.2016, additional affidavit has been filed. As there was no direction to point out whether documents are available or not, that affidavit has not been filed. He is seeking time of one week to place that affidavit on record.

We are at pains to record this submission of learned Assistant Government Pleader Shri N.S. Rao. The pleadings are supposed to be read and, thereafter, reply needs to be drafted. As we notice certain lacunae, we make certain queries and depending upon contingency, we also grant adjournment. That does not mean that we have permitted the parties to fill in lacunae.

In this situation, as assertion of the petitioners about availability of documents has remained untraversed, accepting it we quash and set aside impugned order dated 27.1.2016. Consequently, order dated 29.4.2015 which depends upon impugned order dated 27.1.2016 is also quashed and set aside.

As requested by learned counsel Shri Anand Parchure for respondent No.4, respondent No.1 to complete the exercise of consideration afresh, within next six weeks. The petitioners as also respondent No.2 shall be given an opportunity of hearing, if necessary.

The parties are permitted to appear before

respondent No.1 on 11.8.2016 and to abide by his further instructions in the mater. Needless to mention that all contentions are kept open.

Respondent No.1 shall pay costs of Rs.2,000/- (Rupees Two Thousand Only) to the petitioners.

JUDGE

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on : - 27/07/2016

...../-