

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

WRIT PETITION NO.676/2016

Bal Vikas Shikshan Sanstha Kelzar, through its Secretary, Chainkar Bhagwanji
Manjare, Kelzar, Tahsil Seloo, Distt. Wardha and another
...Versus...

State of Maharashtra, through its Secretary, School Education Department,
Mantralaya, Mumbai – 32 and another

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

Court's or Judge's orders

Shri Sachin Khandekar, Advocate for petitioners
Mrs. R.A. Deshpande, AGP for respondents

CORAM : SMT. VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.

DATE : 21.03.2016

By this petition, the petitioners impugn the order of the Education Officer (Secondary), Zilla Parishad, Wardha, dated 19.10.2013 rejecting the proposal for appointment of the petitioner no.2 on the post of junior clerk.

In pursuance of an advertisement published by the petitioner no.1 – Management, the petitioner no.2 was appointed on the post of junior clerk on 6.2.2012. The petitioner no.1 – Management sent the proposal for grant of approval to the appointment of the petitioner no.2 on the post of junior clerk. The proposal was rejected by the impugned order, dated 19.10.2013 on the ground that the appointment of the petitioner no.2 was made by the petitioner no.1 during the period of ban by the State Government.

Shri Khandekar, the learned Counsel for the petitioners submitted that the proposal for grant of approval to the appointment of the petitioner no.2 could not have been rejected on the ground that the appointment was made during the ban period. It is stated that the petitioner no.2 was appointed after following the due procedure. It is stated that the petitioner no.2 had applied in pursuance of the advertisement.

Mrs. Deshpande, the learned Assistant Government Pleader appearing on behalf of the respondents submits that the petitioner no.1 could not have made the appointments in the school during the ban period. It is stated that the petitioner no.1 had not sought the permission of the education authorities for making the appointment of the junior clerk before issuance of the advertisement, if any. It is stated that the order of the Education Officer cannot be assailed, in the circumstances of the case.

On hearing the learned Counsel for the parties, it appears that there is no scope for interference with the impugned order in exercise of the writ jurisdiction. Admittedly, the petitioner no.1 has appointed the petitioner no.2 on the post of junior clerk during the ban period. Though we had asked the learned Counsel for the petitioners on the previous date of hearing to find out whether the petitioner no.1 had sought permission of the Education Officer for filling the post of junior clerk, as admittedly there is no permission for filling the said post, the learned Counsel for the petitioners fairly states that the permission of the respondent – Education Officer was not sought before the post of junior clerk was filled and the petitioner no.2 was appointed. It is apparent from the aforesaid statement made

on behalf of the petitioners that proper procedure was not followed by the petitioner no.1 while making the appointment of the petitioner no.2. Firstly, the appointment is made during the ban period and secondly, the petitioner no.1 had not sought the permission of the Education Officer to fill the vacant post of junior clerk. Admittedly, there is no permission granted by the Education Officer to the petitioner no.1 to appoint a junior clerk in the school, run by the petitioner no.1.

In view of the aforesaid, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

Wadkar