

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11029 of 2014

Shri Mulani Dastagir Shamasoddin .. Petitioner
Versus
State of Maharashtra and ors .. Respondents

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Mr.V.K. Bodhare i/b Mr.A.M.Joshi for the petitioner.
Mr.S.B. Kalel, AGP for the respondent nos.1 and 2.

**CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 6th DECEMBER, 2018

P.C:-

1 The petitioner is working as a Peon.

2 The respondent no.3 is the Management which runs and administers the respondent no.4 School of which the Head Master is also before us. Both respondent nos.3 and 4 sought sanction and approval to the appointment of the petitioner as a Peon and a proper individual proposal to that effect was forwarded pursuant to the appointment order dated 27th December 2007, copy of which is annexed as Exhibit-B to the petition.

3 On 31st October 2012, that proposal is rejected. Hence this Writ Petition.

4 From the Writ Petition itself, one can cull out that the appointment is not made at the sweet will and fancy of the management or that they want to accommodate somebody who could not have been appointed or accommodated. They have forwarded the requisite data and thereafter relied on it. The requisite data is the sanctioned staff strength. From the date and from the academic year, the petitioner was appointed, there is consistently a sanction and the staff strength shows that three posts of Peon have been sanctioned. The three posts were available for subsequent academic years until the date of the rejection of proposal. It is in these circumstances and when there is no contra material to indicate that the posts (three in number as sanctioned in terms of the staffing pattern) are no longer in existence or the number has reduced, there is no justification to withhold the approval.

5 In matters of this nature, we had reminded the Principal Secretary, Department of Higher and Technical Education, Government of Maharashtra, in the presence of Advocate General that such litigation is a sheer waste of time of this Court, for a Peon should not come to this Court seeking its intervention in matters which the Education Officer is

expected to decide. This Court is being converted into an office of Education Officer and by depositing all records. Merely because such litigations are brought, this Court is not able to devote time to some other deserving litigations and such litigation pertaining to a Grade IV employee remains pending. Consequently, he suffers loss of salary in terms of the approved pay scales. On occasions, such employees retire from service and then do not obtain the pensionary benefits as well. For all these reasons, we set aside the impugned order and grant the approval to the petitioner's appointment as a Peon in respondent no.3 and 4.

6 We direct payment of costs quantified at Rs.10,000/- by the Education Officer (Secondary) District Satara. The costs be paid to the petitioner within four weeks failing which the amount shall be recovered from the monthly salary of this Education Officer.

(SMT. BHARATI H. DANGRE, J.) (S.G. DHARMADHIKARI, J.)