

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

Writ Petition No. 13638 of 2018

District : Latur

Ashok s/o. Yashwantrao Biradar,
Age : 47 years,
Occupation : Service,
R/o. Dhondhipparga,
Taluka Udgir, Dist. Latur.

.. Petitioner

versus

1. The State of Maharashtra,
Through its Secretary,
School Education Department,
Mantralaya, Mumbai - 32.
2. The Deputy Director of Education,
Latur Division, Latur.
3. The Education Officer (Secondary),
Zilla Parishad, Latur,
Dist. Latur.
4. The Secretary,
Mahesh Shikshan Prasarak Mandal,
Udgir, Taluka Udgir, Dist. Latur,
Through : Pravin Trimbakrao
Biradar,
Age : Major,
Occupation : Secretary of the
said trust/Clerk,
R/o. Near House of Abhay Sangewar,
Nanded Naka, Uday Colony,
Udgir, Taluka Udgir,
Dist. Latur - 413 517.

Or

C/o. Mahesh Prathamik Vidhya
Mandir, Shellal Road, Udgir,
Taluka Udgir, Dist. Latur.

5. The Head Master,
Loneshwar Vidhyalaya, Loni,

M.I.D.C., Taluka Udgir,
Dist. Latur.

6. The Head Master,
Pratibha Niketan Vidhyalaya,
Dhondhipparga,
Taluka Udgir, Dist. Latur.

.. Respondents.

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Mr. D.S. Mali, Advocate, for the petitioner.

*Mr. S.B. Yawalkar, Additional Government Pleader,
for respondent nos.01 to 03.*

*Mr. V.D. Gunale, Advocate, for respondent
nos.04 and 05.*

Respondent no.06 served.

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**CORAM : S.V. GANGAPURWALA &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 14TH OCTOBER 2019

ORAL ORDER :

01. Mr. D.S. Mali, learned Counsel for the petitioner, submits that the post of Junior Clerk is vacant. The respondents are not forwarding proposal of the petitioner for promotion to the post of Junior Clerk. The petitioner is qualified to be appointed as Junior Clerk. He is possessing qualification of H.S.C. One Mr. Banne Narsing Gangaram had given in writing to the Education Officer, that he is not interested in the promotional post. Other two candidates namely, Birajdar Govind Shankarrao and Dattanure Nivrutti Pandharinath are not qualified for

the promotional post of Junior Clerk.

02. Mr. Gunale, learned Counsel for respondent nos.04 and 05, submits that Banne Narsing Gangaram has given in writing to the management, that he be considered for the post of Junior Clerk. Mr. Gunale further submits that within a period of four weeks from today, the management would forward the proposal for promotion of Peon to the post of Junior Clerk. The same would be of the senior most person.

03. The ban on recruitment shall not apply for promotion. A person can be promoted from Class-IV to Class-III post provided he has necessary qualification for the same. In the seniority list maintained by the management, six persons are shown to be working as Peon. The petitioner is at serial no.04 on the post of Peon. One Banne Narsing Gangaram is not party to the present writ petition. The petitioner has placed on record, communication of said Banne Narsing Gangaram dated 24-03-2015 to the Education Officer (Secondary) to the effect that he would not be interested for the promotional post.

04. If said Banne Narsing Gangaram on his own volition does not seek appointment of the promotional post, then after him it is the petitioner who is qualified for the post of Junior Clerk. The management has undertaken that it shall forward

proposal of a person to be promoted from the post of Peon to the post of Junior Clerk, within a period of four weeks from today.

05. In case, proposal of the petitioner is not forwarded, the petitioner is entitled to raise objection with Education Officer to that effect. The Education Officer shall consider the objection raised by the petitioner, if any and after hearing the petitioner and other affected persons, the Education Officer shall take decision upon it as expeditiously as possible and preferably within a period of three months from the date of receipt of proposal by him.

06. With the above directions, the writ petition is disposed of.

(Smt. Vibha Kankanwadi)
JUDGE

(S.V. Gangapurwala)
JUDGE

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