

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

**WRIT PETITION NO.5175 OF 2010
WITH
CIVIL APPLICATION NO.12093 OF 2011
IN WP/5175/2010**

Khushal s/o Kerba Manke,
Age : 34 years, Occupation : Service,
R/o Itgyal (Pade), Post: Ambulga (Bk),
Tq.: Mukhed, Dist. : Nanded.

....PETITIONER

-VERSUS-

1. The State of Maharashtra.
Through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai.
2. The Director,
Vimukta Jati, Nomadic Tribes,
Other Backward Classes
Welfare Directorate,
Maharashtra State, Pune.
3. Special Social Welfare Officer,
Latur, District Latur.
4. Devnagari Bahuuddeshiya Shikshan
Prasarak Mandal, Devani,
Tq.: Devani, Dist.: Latur.
Through its Secretary.
5. Rambhau Mhalgi Primary
Ashram School, Wadhavana (Bk),
Tq.: Udgir, Dist.: Latur,
Through its Head Master.

....RESPONDENTS

AND
WRIT PETITION NO.299 OF 2011

DEVNAGARI BAHUUDDESHIYA SHIKSHAN PRASARAK
MANDAL
VERSUS
THE DIRECTOR (VJNT) PUNE AND OTHERS

...
Advocate for the Petitioner/ Management in WP 299/2011 and
for Respondents 4 and 5 in WP 5175/2010 : Shri N.P.Patil
Jamalpurkar

AGP for Respondents 1 to 3 : Shri S.R. Yadav Lonikar

Advocate for Respondent 4 in WP 299/2011 and for the
petitioner in WP 5175/2010 : Shri Satish S. Deshmukh

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CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.

DATE :- 20th August, 2021

Oral Judgment (*Per Ravindra V. Ghuge, J.*):-

1. Shri Patil, learned advocate representing the Educational Institution, which is the petitioner in Writ Petition No.299/2011 and respondent No.4 in Writ Petition No.5175/2010, places before us the order dated 16.01.2019 passed by the Regional Deputy Commissioner, Social Welfare Department, Latur delivered in Appeal No.3/2019 filed by

another teacher Shri Dipak Nagnath Kanje. The petitioner (Shri Khushal Manke) in Writ Petition No.5175/2010 is the respondent No.4 in the said appeal. The said order indicates that the present petitioner (Shri Manke) has been selected as per the backlog roster. As regards approval, the orders could not be passed despite the directions of this Court dated 26.04.2013 delivered in Writ Petition No.7767/2012 filed by Shri Dipak Kanje since the present petition filed by Shri Khushal Manke was pending. The copy of the said order dated 16.01.2019 (14 pages) is taken on record and marked as X-1 for identification.

2. Shri Patil then tenders the copy of the communication dated 11.04.2019 issued by the Assistant Commissioner of Social Welfare, Latur addressed to Shri Dipak Kanje and the present petitioner Shri Khushal Manke. The said communication also states that the present petitioner Shri Manke has been selected in accordance with the roster. However, the approval for his appointment is kept pending since his present petition is pending final hearing. The said communication dated 11.04.2019 (13 pages) is taken on record and marked as X-2 for identification.

3. Shri Patil also tenders the communication dated

29.05.2020 issued by the Assistant Commissioner of Social Welfare, Latur addressed to the Educational Institution, petitioner in Writ Petition No.299/2011, wherein, it has been once again stated that the proposal for granting approval to the appointment of the petitioner (Shri Manke) can be sent afresh subject to the decision of this Court in the pending petition. The said communication dated 29.05.2020 is taken on record and marked as X-3 for identification.

4. Shri Deshmukh, learned advocate for the petitioner (Shri Manke), submits that his Appeal No.1/2011 seeking unpaid wages is pending before the Assistant Commissioner, Social Welfare Department, Latur. So also, an employee belonging to the backward category Shri R.P.Lashkare has superannuated from employment. This eases the path of the petitioner. He, therefore, submits that the petitioner will withdraw this petition as well as Appeal No.1/2011 so as to enable the Assistant Commissioner, Social Welfare Department, Latur to pass an appropriate order for granting approval to the appointment of the present petitioner. Thereafter, he would prefer a fresh appeal to the extent of unpaid wages, if the dispute with the Management still persists.

5. In view of the above, Shri Patil submits that the Educational Institution would also withdraw Writ Petition No.299/2011.

6. As such, both Writ Petitions are disposed off as withdrawn. To meet the ends of justice, we are issuing the following directions :-

(a) The Management shall submit a fresh proposal seeking approval to the appointment of the petitioner (Shri Khushal Manke) to the Assistant Commissioner, Social Welfare Department, Latur, on or before 15.09.2021.

(b) The Assistant Commissioner, Social Welfare Department, Latur would decide the said proposal on it's own merits, as expeditiously as possible and preferably on or before 30.10.2021. In the event, he finds it necessary to record the views of the petitioner (Shri Khushal Manke) and the Management, he is at liberty to do so.

(c) In the event of favourable orders being delivered, considering that one employee (R.P.Lashkare) had retired and the Assistant Commissioner, Social Welfare Department, Latur has arrived at the conclusion that the selection of the petitioner (Shri Khushal Manke) is legal and in accordance with the backlog, the

petitioner (Shri Khushal Manke) would be at liberty to tender a fresh appeal for seeking unpaid wages if the said grievance still persists.

7. Rule in Writ Petition No.5175/2010 is, accordingly, discharged. The pending Civil Application does not survive and stands disposed off.

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(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)