

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8511 OF 2018

VASANT BALU RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.Y.P.Deshmukh, Advocate for the petitioner.
Mr.S.B.Pulkundwar, AGP for respondent Nos. 1 to 3.

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

DATE : AUGUST 25, 2021

PER COURT :

1. Considering the affidavit in reply filed by the Incharge Education Officer, Secondary, dated 18/08/2021, it would be appropriate to direct respondent No.4 to submit the relevant papers pertaining to the selection and appointment of the petitioner so as to enable the Education Officer to consider whether the petitioner is eligible to be promoted as a Jr.Clerk and what could be the deemed date of his promotion.

2. The hurdle in the hearing of this petition is that respondent No.4 is not assisting the Court despite service of Court notice issued on

26/07/2018. As there was no response from respondent No.4, yet another notice was issued on 18/10/2019. Despite service of notice, respondent No.4 is still not causing an appearance.

3. We have perused paragraph No.3 of the affidavit filed by respondent No.3. He admits that the Assistant Charity Commissioner has given him the powers vide order dated 28/09/2010 to take appropriate steps for appointing the staff in the school. The dispute between the two factions of the Management continues even today and, therefore, the Education Officer continues to exercise the powers vested in him by the order dated 28/09/2010.

4. In view of the above, having regard to prayer clause 'A', this petition is partly allowed with the following directions :-

[a] The Education Officer, by virtue of the powers vested in him by order dated 28/09/2010, passed by the Assistant Charity Commissioner, Nanded, shall consider the relevant record to assess whether the petitioner can be promoted as a Junior Clerk w.e.f. 02/03/2009.

[b] Respondent No.3 shall comply with these directions and if the petitioner is eligible to be promoted as a 'Junior Clerk' shall declare the

deemed date of such promotion. This exercise shall be completed on or before 30/10/2021.

[c] Any decision arrived at by respondent No.3 shall be conveyed officially to the petitioner, on or before 25/11/2021. Thereafter, if the petitioner has any grievance, he is at liberty to take recourse to a remedy, as is permissible in Law.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)