

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

933 WRIT PETITION NO. 211 OF 2021

TARTE SANJAY ZUMBAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner: Mr. Shivaji T Shelke
AGP for Respondents No. 1 & 2: Mr. P. K. Lakhotiya

...

**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 08th JANUARY, 2021

PER COURT:

1. The proposal seeking approval to the appointment of the petitioner as Junior Clerk is rejected under the impugned order.

2. Mr. Shelke, the learned Counsel submits that the petitioner was working as a Peon and he was thereafter promoted to the post of Junior Clerk. The proposal for approval is rejected only on the ground that the post on Junior Clerk is to be filled in by nomination and cannot be by promotion. The learned Counsel submits that the post of Junior Clerk can be filled in by promotion. The learned Counsel relies on the

judgment of the Division Bench of this Court in case of **Ashok S/o. Shankarrao Shinde Vs. Probodhan Shikshan Sanstha and others** reported in 1999 (1) **Mh.L.J. 348**. The said judgment is relied further by the Division Bench of this Court in Writ Petition No. 2321 of 2019 under judgment dated 04.12.2020.

3. The learned A.G.P. accepts notice for respondents no. 1 and 2.

4. It appears that the post of Junior Clerk can be filled in by promotion is no longer *res-integra* in view of the judgment of this Court in case of **Ashok S/o. Shankarrao Shinde Vs. Probodhan Shikshan Sanstha and others** and in Writ Petition No. 2321 of 2019 (*supra*).

5. In light of that, the impugned order is quashed and set aside. The Education Officer shall decide the proposal afresh, preferably within four (04) months. It shall not be rejected on the ground of which the impugned order is passed.

6. Writ Petition is accordingly disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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