

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

959 WRIT PETITION NO.13278 OF 2021

**SHINDE MACHHINDRA SHANKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner: Mr. Shelke Shivaji T.
AGP for Respondents No. 1&2: Mr. A. R. Kale

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**CORAM: S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE: 02nd DECEMBER, 2021

PER COURT:

1. The proposal seeking approval to the promotion of the Petitioner is rejected. The Petitioner is promoted to the post of Junior Clerk. The proposal submitted seeking approval to the promotion of the Petitioner as a Junior Clerk is rejected basically on the grounds that the said post has to be filled in by nomination and not by promotion, there is ban on recruitment and the Seniority List is not annexed.

2. We have heard the learned Counsel for the Petitioner, the learned A.G.P. for Respondents No. 1 and 2 and the learned Counsel for Respondent No. 3 / Management.

3. The issue, that the post of Junior Clerk can be filled in by promotion is no longer *res-integra* in view of the Judgment and Order of the Division Bench of this Court in Writ Petition No. 14978 of 2019 dated 13.01.2021. It has also relied on the earlier Judgment of the Division Bench of this Court and held that the post of Junior Clerk can be filled in by promotion from Class-IV post.

4. In view of the fact that the post can be filled in by promotion, ban on recruitment would not apply.

5. As far as Seniority List is concerned, the Management shall forward the seniority list to the Education Officer within a period of two (02) weeks from today.

6. The impugned order is set aside. The Education Officer shall re-consider the proposal seeking approval to the promotion of the Petitioner afresh and decision shall be taken preferably within a period of four (04) months.

7. Writ Petition accordingly stands disposed of. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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