

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2821 OF 2021

Sachin Vijay Rajmane and Ors. ... Petitioners
Vs.

State of Maharashtra and Ors. ... Respondents

Mr. Laxman S. Deshmukh, Advocate for Petitioners.
Mr. S. B. Kalel, Learned AGP for State- Respondents.

**CORAM : R.D. DHANUKA &
ABHAY AHUJA, JJ.
DATE : 22ND SEPTEMBER 2021**

P.C. :

1. Rule. Mr. Kalel, Learned AGP for respondents waives service for respondents. Petition is heard finally by consent of parties.

2. By this petition filed under Article 226 of the Constitution of India, petitioner has impugned the communication dated 10th November 2020 issued by the Education Officer (Secondary), Zilla Parishad Sangli, Dist. Sangli, refusing to grant approval to the appointment of petitioner on the post of junior clerk with effect from his appointment dated 1st January 2020 and seeks

consequential benefits including salary.

3. Petitioner No.1 who is appointed to the post of junior clerk by the petitioner no.2 in petitioner no.3-school in the academic year 2018-19, came to be sanctioned in terms of Government Resolution dated 20th January 2019. Petitioner no. 2 issued an advertisement on 22nd December 2019 in the local news paper inviting applications from the eligible candidates for the said post of junior clerk in the petitioner no.3-schools. The petitioner responded to the said advertisement and was appointed as junior clerk in 1st January 2020. The management submitted a proposal to respondent no.3 on 10th October 2020 for the approval of the said appointment. Respondent no. 3, however, rejected the said appointment on the ground that according to the staffing pattern the said post was not sanctioned.

4. Mr. Deshmukh, learned counsel for the petitioner invited out attention to the Government Resolution dated 28th January 2019 and would submit that since the strength of the students of standard V to XII was between 1001 to 1600, there were two sanctioned post of junior clerk. He also relied upon the staffing

pattern sanctioned by the Education Officer for the year 2018-19 in respect of non-teaching staff sanctioning two post of junior clerk for the standard V to XII in view of the petitioner no. 2-school heading 1310 students.

5. Mr. Kalel, learned AGP for the respondents submits that since the said post was not sanctioned by the Director of Education, the impugned order was rightly passed rejecting the approval to the appointment of the petitioner for the post of junior clerk. In rejoinder, Mr. Deshmukh, learned counsel for the petitioner invited our attention to the order dated 1st March 2021 passed by the Director of Education (Primary and Secondary) sanctioning two posts of junior clerk in the petitioner no.3-school in view of 1310 students of the said school.

6. He submits that though the said order was passed on 1st March 2021, the said order was passed considering the pending proposals referred in the said order. He submits that the petitioner no.2-management will not claim any grant for the said post prior to the date of 1st March 2021. Statement is accepted.

7. A perusal of the said order dated 1st March 2021 clearly indicates that two posts were sanctioned by the Director of Education insofar as petitioner no. 3-school is concerned. Perusal of the reference mentioned in the said order clearly indicates that the said issue was pending since 2018-19. The impugned order is passed only on the ground that there was no approval granted by the Director of Education for the posts. In our view, since the approval is already granted by the Director of Education by the said order dated 1st March 2021 in respect of the issues referred in the reference in the said order with respect to the earlier period, the said order would apply to the appointment of the petitioner.

8. We pass the following order:-

- a) Impugned order dated 10th November 2020 passed by the respondent no.3 refusing to grant approval to the appointment of the petitioner no.1 for the post of junior clerk, is quashed and set aside.
- b) The statement made by the learned counsel for the petitioner that petitioners no.2 and 3 would not claim the grant in aid for the said appointment of the petitioner and the said post till 1st March 2021 is accepted.

c) We direct respondent no.3 to grant approval to the said post with effect from the date of initial appointment, however, subject to the condition that the petitioners no. 2 and 3 would not get grant in aid for the said appointment from the initial date of appointment till 1st March 2021.

d) The grant in aid payable to the said appointment from the date of 1st March 2021 shall be released by respondent no. 3 within four weeks from the date of granting approval.

e) The name of the petitioner shall be included in Shalarth Pranali within two weeks from the granting such appointments.

9. Writ petition is disposed of in the aforesaid terms, with no order as to costs.

10. Rule is made absolute accordingly. Parties to act upon authenticated copy of this order.

(ABHAY AHUJA, J.)

(R.D. DHANUKA, J.)