

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

WRIT PETITION NO. 4110 OF 2021

Dattatraya Krishnaji Kalikate

... Petitioner

Versus

The State of Maharashtra and Ors.

... Respondents

Mr. Prashant Bhavake for the Petitioner.

Mr. N. C. Walimbe, AGP for the State-Respondent Nos.1, 2 and 3.

**CORAM: R. D. DHANUKA AND
A. K. MENON, JJ.**

DATE : 23rd AUGUST, 2021.

P.C. :-

1. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the order dated 9th July, 2021 declaring the name of the petitioner as surplus at respondent no.5-Secondary and Higher Secondary School.

2. A perusal of the record indicates that though the petitioner has specifically raised various objections vide letter dated 6th July, 2021 annexed at Exh. 'N' at page 50 of the Writ Petition, in the impugned order by way of statement annexed at pages 52 and 53 of the petition, none of those objections are decided by the Authority. In our view, the impugned order passed is in violation of principles of natural justice being without considering the objections and without recording any reasons and are accordingly quashed and set aside. The respondent no.3 is directed to consider the matter afresh insofar as the petitioner is

concerned and pass an order afresh within four weeks from the date of hearing to the petitioner, after considering objections already filed forming part of the writ petition and the oral submissions that would be advanced by the petitioner without being influenced by the conclusion drawn in the impugned order. The petitioner is directed to remain present before the Education Officer on 1st September, 2021 at 11:00 a.m.

3. The order that would be passed by the Education Officer shall be communicated to the petitioner within one week from the date of passing of such order. If the order is adverse against the petitioner, the petitioner would be at liberty to file appropriate proceedings.

4. Writ Petition is disposed of in aforesaid terms. There shall be no order as to costs.

5. It is made clear that in view of this order thereby quashing and setting aside the impugned order, all the benefits available to the petitioner including his employment would stand restored till the fresh order is passed and for a period of four weeks thereafter, if the order that would be passed by the Education Officer is adverse against the petitioner.

[A. K. MENON, J.]

[R. D. DHANUKA, J.]