

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6693 OF 2019

Shri.Mansing Krishna Khot

...Petitioner

V/s.

The State of Maharashtra & Ors.

...Respondents

Mr.Prashant Bhavake for the Petitioner.

Mr.N.C. Walimbe, AGP for Respondent Nos.1 to 5-State.

Mr.Umesh H. Pawar for Respondent Nos.6 and 7.

CORAM : NITIN JAMDAR AND
C. V. BHADANG, JJ.

DATE : 23 March 2021

P.C.

. The Petitioner is aggrieved by the order passed by the Education Officer, Zilla Parishad, Kolhapur dated 25 June 2018 refusing to grant approval to the appointment of the Petitioner dated 2 August 2011 on the post of Junior Clerk.

2. Respondent-Management issued an advertisement in the newspaper on 27 May 2011 calling for applications for appointment to the post of Junior Clerk. The Petitioner was found suitable and was appointed on 2 August 2011. The Respondent-Management sent the proposal of the Petitioner to the Education Officer-Respondent No.2 for approval. The

Education Officer by impugned order dated 25 June 2018 rejected the proposal.

3. Heard Mr. Prashant Bhavake, learned Counsel for the Petitioner and Mr.N.C. Walimbe, learned AGP for the Respondent Nos.1 to 5-State and Mr.Umesh H. Pawar for Respondent Nos.6 & 7.

4. The rejection of approval of Petitioner's appointment is based on Government Resolution dated 12 February 2015 read with Government Resolution dated 23 October 2013 referring to the staffing pattern and embargo on the fresh appointment. The Education Officer has observed in the impugned order that as per Government Resolution dated 12 February 2015 till a Committee is established to review the staffing pattern as per Government Resolution dated 23 October 2013 no fresh appointment be made and on that ground approval cannot be granted.

5. Learned Counsel for the Petitioner submitted that the Petitioner was appointed on 2 August 2011 which is before to the Government Resolution dated 12 February 2015 and therefore this embargo will not apply to the appointment of the Petitioner. Reliance is placed on the judgment and order passed by Division Bench of this Court in Writ Petition No.3525 of 2019 dated 19 January 2021 (Coram: S. C. Gupte and Surendra P. Tavade, JJ.)

6. Perusal of the Government Resolution dated 12 February 2015 shows that the Government Resolution refers to earlier Resolution dated 23 October 2013 and decision to establish a committee to review staffing pattern. The Government Resolution dated 12 February 2015 simply states that till the Committee as per Government Resolution dated 23 October 2013 submits its report further appointment should not be made. This Government Resolution dated 23 October 2013 itself does not contain any specific embargo. Plain language in the Government Resolution dated 12 February 2015 shows that embargo has been brought into force post 12 February 2015. Therefore the embargo cannot be applied prior to 12 February 2015. The appointment of the Petitioner being of 2 August 2011, the ground for rejection of the Petitioner's approval therefore cannot be sustained.

7. Accordingly the impugned order dated 25 June 2018 is quashed and set aside. The proposal of the Respondent-Management in respect of approval to Petitioner's appointment is restored to the file of Respondent-Education Officer who will decide the same as per law after scrutinizing all relevant facts, except the one which we have decided in this order. The decision be taken within 8 weeks from the date the order reaches the Education Officer. If the decision is taken to grant the approval, the resultant benefits be released to the Petitioner within six weeks thereafter.

8. The Writ Petition is disposed of in above terms.

(C. V. BHADANG, J.)

(NITIN JAMDAR, J.)

Nilam
Kamble

Digitally signed
by Nilam Kamble
Date: 2021.03.25
11:20:10 +0530