

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8522 OF 2021

Prashant Shivanand Patil ... Petitioner
Vs.
State of Maharashtra and others ... Respondents

Mr. Prashant Bhavake for Petitioner.
Mrs. P. N. Diwan, AGP for Respondents-State.

**CORAM : R. D. DHANUKA &
R. N. LADDHA, JJ.**

DATE : DECEMBER 08, 2021

P.C. :-

Mr. Bhavake, learned counsel for the petitioner seeks liberty to delete respondent Nos.6 and 7 from the cause title of the petition. Leave to amend is granted. Amendment to be carried out forthwith. Re-verification is dispensed with.

2. Rule. Mrs. Diwan, learned AGP waives service for the respondents-State. By consent of parties, petition is heard finally.

3. By this petition under Article 226 of the Constitution of India, petitioner prays for writ of certiorari for quashing and setting aside impugned order dated 21.10.2016 passed by respondent No.5 - Education Officer rejecting to grant proposal submitted by the management seeking individual approval to the appointment of the petitioner to the post of Junior Clerk appointed on 01.08.2011.

4. Mr. Bhavake, learned counsel for the petitioner invited our attention to the impugned order dated 21.10.2016 and would submit that his client's proposal is rejected on the ground that there was a ban on the appointment of employees vide Government Resolution dated 02.05.2012 and that staffing pattern was not approved. He submits that

Shri Allamprabhu High School, Halli in which the petitioner was appointed is run by the minority institution. Learned counsel places reliance on the judgment of this Court delivered on **16.07.2021** in case of *Shital Kumar Patil Vs. State of Maharashtra* in **Writ Petition No.4273 of 2019** and connected **Writ Petition No.4275 of 2019** (*Viraj Chavgonda Sarade Vs. State of Maharashtra*) and submits that both these issues are no longer *res integra*. He further submits that both the reasons recorded by the Education Officer in the impugned order are contrary to the principles of law laid down by this Court in **Shital Kumar Patil** (*supra*).

5. Learned AGP for the State invited our attention to the Government Resolution dated 23.06.2003 and would submit that the petitioner in this case has not annexed the certificate granted by the appropriate authority conferring status of minority institute upon the management - Bharat Shikshan Sanstha who runs Shri Allamprabhu High School, Halli in which the petitioner was appointed as a Junior Clerk. Learned AGP, however, could not distinguish the judgment of this Court in **Shital Kumar Patil** (*supra*).

5. A perusal of the said Government Resolution dated 23.06.2003 clearly indicates that the said certificate was issued to the said Bharat Shikshan Sanstha conferring the status of minority institute subject to the conditions that if any of the conditions mentioned therein is violated, the status of minority institute would be cancelled. The said management - Bharat Shikshan Sanstha had subsequently submitted a proposal to the Education Officer for appointment of the petitioner.

6. A perusal of the impugned order dated 21.10.2016 indicates that both the reasons recorded by the Education Officer that there was a ban on appointment of employees *vide* Government Resolution dated 02.05.2012 and that the staffing pattern was not approved is contrary to the judgment of this Court in **Shital Kumar Patil** (*supra*) and thus

deserves to be quashed and set aside. We accordingly pass the following order:

- (a) Writ petition is allowed in terms of prayer clause (b);
- (b) Individual approval to the appointment of the petitioner shall be granted by the Education Officer within four weeks from today without fail. After the approval is granted by the Education Officer, the Deputy Director of Education shall enter name of the petitioner in *Shalarth Pranali* within two weeks thereafter. The consequential benefits based on the grant of the approval and upon entering the name of the petitioner by the Deputy Director of Education in *Shalarth Pranali* shall be released by the Education Officer within four weeks thereafter.

8. Rule is made absolute accordingly. There shall be no order as to costs.

9. Parties to act on the authenticated copy of this order.

(R. N. LADDHA, J.)

(R. D. DHANUKA, J.)