

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

WRIT PETITION NO. 3265 OF 2021

Dattatray Ramchandra Baad

... Petitioner

Versus

The State of Maharashtra and Ors.

... Respondents

Mr. Ajay A. Joshi for the Petitioner.

Mr. Vilas M. Mali, AGP for the Respondent Nos. 1 to 3.

Mr. Lalasaheb Bandal for the Respondent Nos. 4-Management.

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

DATE : 23rd AUGUST, 2021.

P.C. :-

. By this writ petition filed under Article 226 of the Constitution of India, the petitioner has impugned the order dated 23rd July, 2018 passed by the respondent no.3 and also seeks order and direction to grant approval in pursuant to the proposal to the appointment of petitioner as a Shikshak Sevak w.e.f. 31st July, 2017 and to pay salary and all other consequential benefits to the petitioner.

2. We have heard the learned counsel for the parties.

3. Mr. Mali, learned AGP for the State tenders affidavit-in-reply and invited our attention to the letter annexed as Exh. 'J' at page 24 and would submit that there is neither any date nor year or any acknowledgment of the receipt of the said letter alleged to have been

sent by the Management to the Education Officer (Secondary). He invited our attention to the averments made in paragraph 7 of the said affidavit-in-reply dated 12th August, 2021 and would submit that the proposal submitted by the Management was temporarily rejected on non-compliance of the mandatory documents referred in the said paragraph of the said affidavit.

4. Mr. Joshi, learned counsel for the petition states that without going into the arguments of the learned AGP that the said letter at page 24 was not received by the Education Officer, he has requested the Management to submit those documents to the Education Officer for verification within two weeks from today. Learned counsel for the Management states that all such documents would be submitted to the Education Officer for verification within two weeks from today. Statement is accepted.

5. The Education Officer to reconsider the said proposal after the Management submits those documents as set out in paragraph 7 of the said affidavit-in-reply dated 12th August, 2021 within four weeks from the date of the Management complying with the said requirements.

6. The fresh order that would be passed by the Education Officer shall not be influenced by the reasons recorded in the impugned order. For the aforesaid reasons, the impugned order dated 23rd July, 2018 is quashed and set aside.

7. 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 said order is adverse against the petitioner, the petitioner would be at liberty to file appropriate proceeding.

8. The learned AGP clarifies that in paragraph 7(i) of the said affidavit-in-reply what is meant by the deponent of the said affidavit is that the Management shall explain the reasons for not filling up the vacancy and nothing else. Statement is accepted.

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

10. It is made clear that since the impugned order is quashed and set aside and the matter is remanded back to the Education Officer, no coercive steps should be taken on the basis of the impugned order till fresh order is passed by the Education Officer and for a period of four weeks from the date of receipt of the order, if the order that would be passed by the Education Officer is adverse against the petitioner.

[A. K. MENON, J.]

[R. D. DHANUKA, J.]