

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1090 OF 2019

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| <ol style="list-style-type: none">1. National Education Society, Khamgaon Through its President / Secretary, At Khamgaon, Tq.Khamgaon, Dist. Buldhana2. Shri Arjan Khimji National High School and Junior College of Arts, Commerce, Science, H.Sc. Vocational, Khamgaon Through its Head-Mistress At Khamgaon, Tq. Khamgaon, Dist. Buldhana3. Umesh Mahadeorao Bharsakle, Age – 26 years, Occ – Service, R/o – Jalgaon (Jamod), Tq.Jalgaon (Jamod), Dist. Buldhana4. Deepak Ramesh Khokale, Age – 30 years, Occ–Service, R/o. - Ghatpuri – Naka, Khamgaon, Tq.Khamgaon, Dist. Buldhana5. Ku. Shweta Ramesh Gawhane (Shah), Age-34 years, Occ-Service, R/o-Flat No.10, Friends Apartment, Kela-Nagar, Khamgaon, At Khamgaon, Tq.Khamgaon, Dist. Buldhana | } | .. Petitioner |
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Versus

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| <ol style="list-style-type: none">1. State of Maharashtra Through its Secretary of School Education and Sports Department, Mantralaya Mumbai2. Education Officer (Sec), Zilla Parishad, Jaistamb Chowk, Buldhana, Tq. and Dist.Buldhana | } | .. Respondents |
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Mr. P. S. Patil, Advocate for petitioner.

Mr. D. P. Thakare, Addl.G.P. for respondent Nos.1 & 2.

CORAM : **SUNIL B. SHUKRE AND**
ANIL L. PANSARE, JJ.

DATED : **25/10/2021**

ORAL JUDGMENT (Per Sunil B. Shukre, J.)

Heard learned counsel for the petitioner, learned Additional Government Pleader for respondent Nos.1 and 2.

(2) **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

(3) The issue involved in this petition is of the rejection of the approval by respondent No.2 to the appointment of petitioner No.3 as 'Shikshan Sevak'. The similar issue was also involved initially in respect of petitioner Nos.4 and 5, but during pendency of the present petition, the approval having been granted to these petitioners, the grievance of the petitioner Nos.4 and 5 stands redressed and therefore, their petition deserves to be disposed of as having worked itself out and it is disposed of accordingly. As regards the rejection of approval by respondent No.2 to the appointment of the petitioner No.3 as 'Shikshan Sevak', the grievance still remains and it is of the petitioner Nos.1, 2 and 3.

(4) Learned counsel for the petitioner Nos.1 to 3 submits that the reasons given by the respondent No.2 for not approving the appointment are not factually correct. He points out that the petitioner No.3 already possesses H.Sc. and D.Ed. qualifications, but respondent No.2 has erroneously found that the petitioner No.3 does not possess the same. He further submits that petitioner No.3 has also cleared the Maharashtra Teachers Eligibility Test – 2019 (MAHATET-2019) during pendency of this petition and in support, he has tendered a copy of the final result sheet of MAHATET–2019, which is taken on record and marked as 'A' for identification.

(5) Learned Additional Government Pleader submits that these submissions pertained to some new facts and it would be appropriate that respondent No.2 is given an opportunity to consider the new facts afresh.

(6) In view of above, we find that purposes of this petition shall be served, if the matter is remanded back to the respondent No.2 for fresh consideration by him in accordance with law.

1. Accordingly, the petition of petitioner Nos.1, 2 and 3 is partly allowed and the impugned order to the extent it rejects approval of the appointment of petitioner No.3 as 'Shikshan Sevak' is hereby quashed and set aside.
2. The matter is remanded back to the respondent No.2 for its consideration afresh in accordance with law.
3. Petitioner No.3 is directed to appear before the respondent No.2 on 27th October, 2021. He is also granted liberty to produce before the respondent No.2, additional documents including the final result sheet of MAHATET-2019 and certificates of H.Sc. and D.Ed.
4. The respondent No.2 is directed to consider the whole issue in the light of the new developments and documents which would be produced before him by the petitioner No.3 in accordance with these directions and decide the issue as expeditiously as possible, and in any case within **six weeks** from the date of the appearance of the petitioner No.3 before him.

(7)

Rule accordingly. No costs.

[ANIL L. PANSARE J.]

[SUNIL B. SHUKRE J.]

KOLHE