

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

WRIT PETITION NO. 6222 OF 2019

PETITIONER: Omkar Nandkishor Rayapalwar,
Age 32 years, R/o. Plot No. 47,
House NO. 2687, Rajaswa Nirik Shakmandal,
Pardi Nagpur.

...VERSUS...

RESPONDENTS:

1. The State of Maharashtra,
through its Secretary,
Government of Maharashtra, School Education
and Sports Department, Mantralaya
Extension Building, Mumbai.
2. The Education Officer (Secondary),
Zilla Parishad, Nagpur.
3. Bhartiya Shikshan Mandal,
through its Secretary Sheshadri Sadan,
Tulsibag, Mahal, Nagpur.
4. Swargiya Sou. Jijibai Labhe Smruti
Navyug Vidyalaya, through its Headmaster,
Mahal, Nagpur.

Shri A.M.Sudame, Advocate for petitioners
Shri A.A.Madiwale AGP for respondent nos.1 and 2
Shri A.D.Mohgaonkar, Advocate for Respondent Nos.3 and 4

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**
DATE : 01/04/2021.

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.)

1] Hearing is conducted through Video Conferencing and all the learned Advocates agreed that the audio and visual quality was proper.

2] Heard Shri Sudame, learned counsel for the petitioner and Shri Madiwale, learned AGP for Respondent Nos. 1 and 2 and Shri Mohgaonkar, learned counsel for the respondent Nos.3 and 4.

3] Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

4] We find that the issue involved in this petition is squarely covered by the view taken by us while deciding Writ Petition No. 71256/2018 (Madhav Santosh Gite vrs. Education Officer and ors) by our judgment passed on 02.12.2019 and that the facts are also identical.

5] Accordingly, we find that Government Resolution dated 12.02.2015 would not be applicable to the facts of the present case

and as such, we quash and set aside the impugned decision. The matter is remanded back to the respondent Education Officer for considering the proposal regarding grant of approval to the appointment of the petitioner afresh by examining as to whether or not the petitioner is otherwise eligible to be appointed on compassionate basis in terms of its Resolution dated 31.12.2002. It is made clear that the recruitment ban imposed vide Government Resolution dated 12.02.2015 shall not come in the way of considering the case of the petitioner for grant of approval to his appointment on compassionate basis. Appropriate decision shall be taken in the matter by respondent Education Officer within a period of twelve weeks from the date of receipt of the order. The respondent No.2 is at liberty to call for additional documents from the management.

6] Rule is made absolute in these terms. No costs.

JUDGE

JUDGE