

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

924 WRIT PETITION NO.3405 OF 2018

PIRAJI SAYANNA UREKAR
VERSUS
THE STATE OF MAHARASHTRA & OTHERS

...
Advocate for the petitioner : Mr.V.S.Panpatte
AGP for Respondent-State : Mr.A.S.Shinde
Advocate for Respondent nos. 3 and 4 : Mr.H.S.Bali.

...
**CORAM : S.V.GANGAPURWALA &
S.G.DIGE, JJ.**

DATE : 09.02.2022

P.C. :

1] The petitioner is challenging the order rejecting proposal seeking approval to the appointment. The said proposal is rejected by the Education Officer [Secondary] under order dated 25.01.2018.

2] We have heard learned counsel for the petitioner and learned AGP.

3] Along with the affidavit, the Education Officer has filed copy of judgment dated 1st April, 2016 delivered by the School Tribunal in Appeal No.20/2014 preferred by the petitioner. The petitioner had filed an appeal for grant of provisional approval and release of honorarium against the Education Officer of the School and the management.

4] In the said Appeal, the School Tribunal framed following points for determination :

	Points for determination	Findings
1.	Whether appellant proves that, respondent No.3 school is a private recognized school?	Yes
2.	Whether appellant proves that, on 23.01.2012 the respondent management duly appointed him in respondent No.3 school on clear, vacant, permanent and open post of Sahayyak Shikshak?	No
3.	Whether appellant proves that, inspite of submission of proposal of his appointment with respondent No.1 Education Officer (Secondary) and inspite of issuing reminders dated 27.02.2013 & 06.03.2013, the respondent No.1 Education Officer (Secondary) arbitrarily & illegally is not granting the same?	No
4.	Whether appellant proves that, the Tribunal has jurisdiction to entertain and decide the appeal?	Yes
5.	Whether appellant is entitled to get reliefs of issuing directions to respondent No.1 Education Officer (Secondary), to grant provisional approval to his said appointment as	No

	Sahayyak Shikshak in respondent No.3 school on probation w.e.f. 23.01.2012, release honorarium @ Rs.8,000/- per month, grant approval as an Assistant Teacher and pay the salary as claimed?	
6.	What order?	As per final order.

5] Appeal filed by the petitioner was dismissed. The School Tribunal specifically came to the conclusion that appellant / present petitioner is not duly appointed in respondent no.3 School on clear, vacant and permanent post.

6] In view of judicial order passed by the School Tribunal holding the petitioner is not duly appointed by respondent no.3 on clear vacant post, the Education Officer certainly could not have taken a different view.

7] In the light of that, the impugned order passed by the Education Officer needs no interference.

8] Learned counsel for the petitioner submits that the petitioner did not challenge the order of School Tribunal as subsequently the Education Officer has passed the impugned order. The petitioner be given liberty to challenge the order of the School Tribunal. It is not for this

Court to grant liberty if the final orders are passed. The same can be assailed in accordance with law. For that purpose, no separate order has to be passed in respect of liberty. It is for the petitioner to claim benefit of proceedings filed before the wrong forum.

9] Writ Petition is disposed of. No costs.

[S.G.DIGE, J.]

[S.V.GANGAPURWALA, J.]

DDC