

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6278 OF 2019

Datta S/o Mohan Gadekar
Age 31 years, Occ. Service (Peon)
R/o Chanduri, Tq. Nilanga
Dist. Latur

Petitioner

Versus

1. The State of Maharashtra
Through the Deputy Director of
Education, Latur Region,
Latur
2. The Education Officer (Secondary)
Zilla Parishad, Latur.
3. The Secretary,
Shri Shanmukheshwar
Shikshan Sanstha, Tambala
Tq. Nilanga, Dist. Latur
4. The Head Master
Shri Shanmukheshwar Vidyalaya
Tambala, Tq. Nilanga
Dist. Latur

Respondents

Mr. G. D. Kale, advocate for the Petitioner.
Mrs. M. A. Deshpande, AGP for Respondent Nos. 1 and 2.
Mr. A. V. Patil, advocate for Respondent Nos. 3 and 4.

**CORAM : C. V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 21 June, 2022.

ORAL JUDGMENT (Per : C. V. Bhadang, J.) :

Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 The challenge in this petition is to the impugned communication dated 04.01.2018 refusing to grant approval to the appointment of the petitioner as a Peon in Respondent-school. The Respondent Education Officer had found that as the work of finalizing the approved staffing pattern was in process, the approval cannot be granted. This order is passed in relation to the proposal dated 13.09.2017. However, the letter dated 09.01.2018 from the Respondent-School shows that prior thereto there were two other proposals dated 24.01.2012 and 23.08.2013.

3 The learned Counsel for the petitioner submitted that the appointment is made in sanctioned post having clear vacancy which had fallen vacant on account of retirement of the incumbent.

4 Upon hearing the learned Counsel for the petitioner, we find that it would be appropriate for the Education Officer to

reconsider the proposal after giving an opportunity to the Respondent-Management to produce the documents, as may be required.

5 In the result-,

(i) The petition is allowed.

(ii) The impugned order is hereby set aside.

(iii) The Education Officer shall consider the proposal for grant of approval after granting an opportunity to the Respondent-Management to produce such documents and making such compliances, as may be required, as expeditiously as possible. While considering the proposal for grant of approval, the Education Officer shall be guided by the policy as was applicable at the time of appointment.

6 Rule is made absolute in aforesaid terms with no order as to costs.

SANDIPKUMAR C. MORE, J.

C. V. BHADANG, J.

adb