

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1194 OF 2021

AJIT BAHURAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. G.V. Mohekar
h/f. Mr. M.S. Taur
AGP for Respondent Nos. 1 & 2 : Mrs. M.A. Deshpande
Advocate for Respondent Nos. 3 & 4 : Mr. S.R. Chaware

CORAM : C.V. BHADANG &
SANDIPKUMAR C. MORE, JJ.

DATE : 16 JUNE, 2022.

ORDER :

Rule. Rule made returnable forthwith. Learned AGP waives service on behalf of respondent Nos. 1 and 2. Learned counsel for the respondent Nos. 3 and 4 waives service. Heard finally by consent of parties.

2. The challenge in this petition is to the order dated 04 March, 2020 passed by the respondent – Education Officer, thereby, refusing to grant approval to the appointment of the petitioner, as a Peon in respondent – School.

3. We have heard the learned counsel for the parties and perused record.

4. A perusal of the order dated 4 March, 2020 shows the approval has been refused, *inter alia* for the reason that there is no approved staffing pattern for non-teaching staff, as per the Government Resolution dated 12 February, 2015. The Education Officer has also found that the appointment of petitioner was made in the year 2010, however, the proposal for seeking approval was not sent till 2019 and lastly the recruitment was not carried out as per Government Resolution dated 6 February, 2012.

5. Learned counsel for the petitioner states that there were two prior proposals sent ; one in the year 2010 and other in the year 2017 which have not been considered by the Education Officer. He, therefore, submits that there was no delay. Secondly, it is submitted that the appointment of the year 2010 cannot govern itself by virtue of the Government Resolution dated 12 February, 2015.

6. Learned AGP in all fairness did not dispute that there is no reference in the impugned order about the two proposals sent one in the year 2010 and second in the year 2017.

7. This would be relevant as the alleged delay in sending the proposal has been found to be one of the reasons for rejection of the proposal. Therefore, in our view it would be appropriate, if the Education Officer reconsiders the proposal in the light of the claim that earlier two proposals were sent in the year 2010 and 2017 and also in view of the fact that according to the petitioner, the

appointment being of the year 2010 would not govern itself by virtue of Government Resolution dated 12 February, 2015.

8. In view of that, Writ Petition is partly allowed. The impugned order is hereby quashed and set aside. The respondent – Education Officer shall consider the proposal of the petitioner afresh and shall pass appropriate order in accordance with law, within a period of three months from the receipt hereof.

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

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.