

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.8295 OF 2018
WITH
WRIT PETITION NO.5125 OF 2017**

SUNIL TATERAO JADHAV AND ANOTHER ..PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. P. P. More, Advocate for the Petitioners.

Mr. K. N. Lokhande, AGP for Respondent Nos.1 to 3.

Mr. N. B. Kadam, Advocate for Respondent No.4.

Mr. V. S. Panpatte, Advocate for Respondent No.5.

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**CORAM : R. D. DHANUKA &
S. G. MEHARE, JJ.**

DATED : 05th APRIL, 2022.

PER COURT:-

1. The learned counsel for petitioners invited our attention to the order dated 15.12.2016 passed by the Division Bench of this Court in Writ Petition No.699/2013, order dated 29.01.2018 passed by this Court in Writ Petition No.13199/2017, letter of appointment of petitioner no.1 dated 01.12.2010 and letter of appointment of petitioner no.2 date 17.02.2011 and submits that, this Court had directed the Education Officer to decide the proposals submitted by the management in respect of these two teachers and shall not reject the proposals on the ground that there were surplus teachers. The Education Officer has passed a common order in respect of four teachers and has rejected their proposals on five grounds.

2. In so far as first ground of rejection is concerned, it is submitted that, though the management has made these appointments after 02.05.2012, the approval is rejected on the ground that the appointments of the petitioners were made after 02.05.2012. This would show total non-application of mind on the part of the Education Officer. The facts of all the four teachers were different. The petitioners in this petition were appointed much prior to 02.05.2012.

3. The Education Officer has passed a common order by recording common reasons in respect of four teachers. In our view the order indicates total non-application of mind on the part of the Education Officer.

4. The Education Officer could not have passed a common order in respect of four teachers when the facts in respect of four teachers were different.

5. On perusal of the reasons recorded in the impugned order it is not possible to segregate the reasons in respect of each of the teachers whose appointments are rejected by the Education Officer. We accordingly pass the following order:

ORDER

a. The impugned order dated 26.04.2018 passed by the Education Officer is quashed and set aside.

The proposals submitted by the management in respect of these two petitioners alongwith other two teachers whose approvals are rejected by the Education Officer are restored to file.

b. These two petitioners and other two teachers are directed to appear before the Education Officer on 13.04.2022 at 11.00 am.

c. The Education Officer is directed to pass separate order in respect of these teachers and shall pass order in accordance with law without being influenced by the observations made and conclusion drawn in the order dated 26.04.2018 and shall comply with the order passed by this Court on 29.01.2018 in Writ Petition No.13199/2017.

d. The order shall be passed within eight weeks from the date of communication of this order after giving personal hearing to these petitioners and other two teachers and also the management. The order that would be passed shall be communicated to these petitioners and the management and other two teachers within one weeks from the date of passing order.

e. If the proposal submitted by the management is accepted, the Education Officer shall grant all consequential benefits to the petitioners within four weeks from the date of granting such approval. The names of these petitioners and other two

teachers in that event shall be included in the Shalarth Pranali by the Deputy Director of Education within four weeks thereafter. If any proposal is required to be submitted by the management for recording the names of these petitioners and other two teachers in the Shalarth Pranali the same shall be submitted immediately by the management.

f. If the approval is rejected, these petitioners and other two teachers would be at liberty file appropriate proceedings.

g. Till the proposal submitted by the management is decided by the Education Officer, neither the Education Officer nor the management shall take any coercive steps against the petitioners for removing them from service.

h. If any adverse order is passed by the Education Officer, the Education Officer as well as the management shall not take coercive steps against the petitioners for a period of four weeks from the date of communication of such order.

6. The learned counsel for the Zilla Parishad to communicate this order to the Education Officer for information and compliance.

7. The learned counsel for petitioners agrees to convey this order to other two teachers whose approval is also rejected by the impugned order for information and compliance.

8. Writ Petition is allowed in the aforesaid terms. No orders as to costs.

9. Parties to act on authenticated copy of this order.

(S. G. MEHARE)
JUDGE

(R. D. DHANUKA)
JUDGE

Devendra/April-2022