

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
WRIT PETITION NO.9428 OF 2022

AKSHAY NANA SANAP  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND  
OTHERS

...  
Mr. A. V. Indrale Patil h/f Mr. S. R. Dheple,  
Advocate for the Petitioner.  
Mr. P. S. Patil, AGP for Respondents-State.

...  
CORAM : RAVINDRA V. GHUGE  
AND  
SANJAY A. DESHMUKH, JJ.  
DATED : 18<sup>th</sup> OCTOBER, 2022.

PER COURT:-

1. On 19.07.2021, this Court passed an order in Writ Petition No.7815/2021 directing the Education Office to decide the proposal of the appointment of the petitioner on compassionate basis, within six months. Thereafter, a Contempt Petition No.66/2022 was filed. This Court did not take cognizance of the contempt and by order dated 31.01.2022 observed that the Education Officer would decide the proposal if not decided.

2. The petitioner has brought before us, vide this petition, a strange action on the part of the Education Office in concluding vide the impugned order dated 28.07.2022 that approval cannot be

granted to the petitioner, who has already been appointed on compassionate basis, because there is a dispute amongst the members of the Education Society.

3. The Education Officer was expected to pass an appropriate order in the light of the fact that the petitioner's father who was a permanent peon in the school at Jamner, died while in service on 28.08.2017. The petitioner was appointed as per the Government Resolution dated 31.12.2002 pursuant to filing of Writ Petition No.7579/2019 and when the appointment order was issued in deference to the order of this Court dated 18.09.2019 directing the management to appoint the petitioner on compassionate basis.

4. In view of the above, we find that it was purely a matter of course/formality for the Education Officer to grant approval to the petitioner. Yet, the Education Officer does not grant the approval on a frivolous ground that there appears to be friction in the management. On our direction dated 04.10.2022 to file his personal

affidavit, the Education Officer Dr. Nitin Popatrao Bacchav sets out in the affidavit dated 13.10.2022 that because there is a dispute in the management, that he cannot pass an order.

5. We are absolutely not convinced by the reason cited by the Education Officer. He should have taken into account the fact that this Court had passed an order on 18.09.2019 which paved the way for the appointment of the petitioner on compassionate basis. The petitioner had to initially approach this Court for seeking appointment on compassionate basis by preferring his first Writ Petition No.7579/2019. Thereafter, he had to prefer a second Writ Petition No.7815/2021 as the Education Officer was not granting approval. He then moved a Contempt Petition No.66/2022 on account of the disobedience of the Education Officer. And now, the petitioner had to file his fourth petition since the Education Officer declined to grant approval.

6. Taken into account the above factors, this petition is allowed. We direct the Education

Officer to grant approval to the appointment of the petitioner on compassionate basis with effect from the date of his appointment.

7. Considering the conduct of the Education Officer, we had granted him an opportunity of explaining his conduct pursuant to which he has filed his affidavit dated 13.10.2022 making much ado about nothing with reference to the internal squabbles of the management. Hence, we are imposing cost of Rs.10,000/- which Education Officer Dr. Nitin Popatrao Bacchav shall deposit in this Court from his salary account, on or before 15.11.2022. After the amount is deposited, the petitioner would be at liberty to withdraw the said amount with proper identification from the learned advocate, without conditions. We direct the Chief Executive Officer of the Zilla Parishad, Jalgaon to enter this order in the service book of the Dr. Nitin Popatrao Bacchav.

**SANJAY A. DESHMUKH)**  
**JUDGE**

Devendra/July-2022

**(RAVINDRA V. GHUGE)**  
**JUDGE**