

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

921 WRIT PETITION NO.11921 OF 2019

Mahindra S/p Pandit Lokhande,
Age : 29 Years, Occ. Service,
R/o. Dabhadi Tq. Badnapur
District Jalna.

..PETITIONER

VERSUS

1. The State of Maharashtra
Through the Secretary
Education Department, Mantralaya,
Mumbai-31.
2. The Education Officer,
Zilla Parishad Jalna
3. The President/ Secretary,
Shivaji Shikshan Sanstha,
C/o Shivaji Vidyalaya, Dabhadi,
Tq. Badnapur, Dist. Jalna
4. Shivaji Vidyalaya, Dabhadi,
Through its- Head Master,
R/o. Dab hadi Tq. Bandnapur
District Jalna.

.. RESPONDENTS

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Advocate for the Petitioner : Mr. Shrikant Kulkarni
A.G.P for Respondents No.1 : Mr. P. K. Lakhotiya
Respondent No.2 served
Advocate for Respondent Nos. 3 : Mr. A.P. Piratwad & Harshad
and 4 Padalkar

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**CORAM : R. D. DHANUKA &
S.G. MEHARE JJ.
DATE : 09.03.2022.**

ORAL JUDGMENT (PER R.D. DHANUKA J.) :-

Rule. The learned A.G.P waives service of notice for respondent Nos. 1 and Mr. A.P. Piratwad, the learned counsel for respondent No.3 and 4 waives service of notice. Respondent No.2 is absent though served.

2. Rule is made returnable forthwith.

3. By this petition filed under Article 226 Constitution of India, the petitioner has prayed for Writ of Mandamus against respondent Nos. 1 and 2 to pay entire salary of the petitioner along with arrears from the date of appointment of the petitioner i.e. 13th August 2013.

4. The petitioner was appointed on the post of peon on compassionate ground on the vacancy arisen due to demise of father of the petitioner who died on 29th February 2012. On 13th August 2013, respondent No.3 issued appointment order in favour of the petitioner on the vacant post of peon. On 24th August 2013 the petitioner was appointed in the respondent No.4 school as a peon and since then he is serving in the said school.

5. On 26th September 2013 respondent No.4 submitted proposal to the Education Officer for approval of the

appointment of the petitioner to the post of peon. The said proposal is still pending.

6. Respondent No.2 cannot refuse to take any action, on the proposal submitted by the School Management for seeking approval of the appointment of the petitioner on the post of peon pending for last several years. In our view, the inaction on the part of the Education Officer, Jalna in not considering the proposal for approval of the appointment of the petitioner for several years is totally illegal and amounts to dereliction of duty. The copy of this order shall be forwarded to the Dy. Director of Education to look into the matter personally and to take an appropriate action against the Education Officer, Zilla Parishad Jalna.

7. The Education Officer, Zilla Parishad, Jalna is directed to consider and pass an order on the proposal submitted by the Management within two weeks from the date of communication of this order without fail. If this order is not complied with by respondent No.2, this Court will initiate a proceeding under the provisions of Contempt of Court Act 1971 along with Article 215 of the constitution of India against the erring officer.

8. The Writ Petition is allowed in aforesaid terms. No order as to costs.

9. Rule is made absolute.

10. Mr. Lakhotiya, learned A.G.P agrees to convey this order to respondent No.2 and the Deputy Director of Education for information and compliance. The order that will be passed by respondent No.2 shall be communicated to the petitioner as well as management within one week from the date of passing order. If the approval is granted, the consequential relief shall be granted to the petitioner by including the name of the petitioner in the *Shalarth Pranali* within two weeks from the date of granting approval. If the approval is rejected on any ground, the petitioner would be at liberty to file appropriate proceeding. In that event the Management shall not take any coercive steps against the petitioner for the period of four weeks from the date of communication of the order.

(S.G. MEHARE J.)

(R.D. DHANUKA J.)

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