

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3866 OF 2022

SHAMBHAVI
NILESH
SHIVGAN

Shri Ashutosh Anil Sahastrabudhe

..... Petitioner

Vs.

The State of Maharashtra & Ors.

....Respondents

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SHAMBHAVI
NILESH SHIVGAN
Date: 2022.07.30
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Mr. N.V.Bandiwadekar i/by Smt. Ashwini Bandiwadekar for the
Petitioner.

Mr. N.C.Walimbe , A.G.P. for the State.

Mr. Mandar Limaye for Respondent Nos.3 to 4.

**CORAM: S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : JULY 27, 2022

P.C.

1. Proposal seeking approval to the post of the Petitioner as
Clerk is rejected.

2. We have heard learned counsel for the Petitioner, the
learned AGP and the learned counsel for the Respondents.

3. Proposal is basically rejected on the ground that No
Objection Certificate was not obtained. There was ban on
recruitment as per the G.R. dated 2nd May, 2012. As per G.R. dated
7th March, 2021, eighteen Junior Clerks are surplus candidates.
Approved roaster is not placed on record. Document pertaining to

the interview is not placed on record and staffing pattern is not placed on record.

4 According to the petitioner, application was given seeking permission to grant NOC to fill up the vacancy of Junior Clerk on 1st July, 2013. Accordingly, Respondent No.3 published advertisement on 9th August, 2013 and the petitioner was appointed on 2nd September, 2013.

5 Respondent No.2 has not stated in the affidavit that application seeking permission to fill in post is not received from the institution. Institution had waited for the period of 8-9 months before issue of advertisement and after giving application to Education Officer. Post can not be kept vacant for indefinite period. In that view of the matter, Clauses 1 and 2 of the order may not survive. G.R. dated 7th March, 2021 may not apply.

6 Position as on the date, the petitioner was appointed, will have to be considered. With regard to other deficiencies, management shall comply with the same.

7 Impugned order is set aside.

8 Education Officer shall re-consider the proposal seeking approval to the post of the Petitioner and shall decide the same within six months after management complies with the deficiencies as is detailed in the impugned order.

9 Writ petition is disposed of.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J.)