

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

Writ Petition No.2454 of 2020

Shri Ashok Giraju More	...	Petitioner
v/s.		
The State of Maharashtra & ors.	...	Respondents

Mr. Y.B.Lengare for the Petitioner.

Mrs. S.S.Bhende, AGP for Respondents 1 & 3.

Mr. Mayuresh D. Nagle for Respondents 4 and 5.

**CORAM : SUNIL B.SHUKRE &
AMIT BORKAR, JJ.**

22nd February 2022

P.C.

Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. By the impugned order dated 22nd April 2019 approval to the appointment of the Petitioner to the post of full time Librarian in Respondent No.5 School has been rejected by the Education Officer (Secondary), Zilla Parishad, Sangli. Such rejection is founded mainly

upon 3 grounds; firstly, failure of the school management in verifying availability of surplus staff for filling up the Librarian post before appointing the petitioner, secondly, the school management not following the staffing pattern as per GR dated 25/11/2005 and its requirements and the appointment of the petitioner having been made during the time when ban on recruitment of non-teaching staff was in operation as per the G.R. dated 10/06/2010 read with GR dated 16/07/2011 and thirdly, not following the roster.

3. It is the contention of the learned Counsel for the Petitioner that there was no need for the school management to have verified the position of surplus non-teaching staff in view of the fact that the Education Officer had only granted permission vide his letter dated 18/07/2011 for filling up the post of Librarian which had fallen vacant on account of retirement of the earlier incumbent. Learned counsel for the Petitioner further submits that the staffing pattern which came into force as per the GR dated 25th November 2005 had no application to the facts of the present case as the post in question was sanctioned on 28th June 1994 and it was filled up as per the conditions of the Sanction dated 28th June 1994 and, therefore, the staffing pattern which came into being subsequently would not govern the aspect of filling of such a post. Learned Counsel for the Petitioner further submits that if there was ban on recruitment of non-teaching staff which was in operation

from 5th June 2010 till 5th June 2012, the Education Officer ought to have granted approval to the appointment of the Petitioner atleast from 6th June 2012, the date from which the recruitment ban was lifted, for the reason that the Petitioner has been continuously working on the same post of full time Librarian. Learned Counsel for the Petitioner further submits that post of full time Librarian being an isolated post, could not have been reserved for any category and, therefore, was not affected by the roster system.

4. The submissions made across the bar on behalf of the Petitioner, in our considered view, require due consideration by the Education Officer, particularly, because the Petitioner has been working as full time Librarian since November 2011 and it is his contention that his appointment was made after following due procedure and it is also his submission that his appointment was made to fill up a post which already had a sanction of Education Officer since 1994 which had no relation with the staffing pattern of the year 2005 which was revised in the year 2013 as well as in 2019 and that the Education Officer had also granted school management permission to fill up the said post.

5. These aspects, if duly considered, by the Education Officer would have the effect of changing the decision of the Education Officer and, therefore, it is necessary that the impugned order is reconsidered.

6. The Petition is, therefore, allowed. The impugned order dated 22nd April 2019 is hereby quashed and set aside. The matter is remanded back to Education Officer (Secondary) Zilla Parishad, Sangli for its consideration afresh in accordance with law and in the light of the contentions of the Petitioner noted as above. The decision shall be rendered by the Education Officer at the earliest and in any case within 8 weeks from the date of receipt of order.

7. Rule made absolute accordingly. No costs.

(AMIT BORKAR,J)

(SUNIL B.SHUKRE,J)

Lata Panjwani, P.S.