

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1901 of 2020

Vaibhav s/o Deepak Tiwari,
Aged about 37 years, Occ.:Service,
R/o Tiwari Niwas, Hanuman Nagar,
Borgaon Naka, Wardha,
Taluka and District Wardha.

..... **PETITIONER**

...V E R S U S...

1. State of Maharashtra, through its Secretary,
Department of School Education and Sports,
Mantralaya, Mumbai-32.
2. Deputy Director of Education,
Nagpur Division, Nagpur.
3. Swavlambi Shikshan Prasarak Mandal, Wardha.
Through its Joint Secretary,
Abhaykumar Narmadadas Keoliya,
R/o at Aditi Medicals, Jail Road,
Shivaji Chowk, Wardha.
Taluka and District Wardha.
4. Swavlambi Junior College of Education, Wardha.
Through its Principal,
Dhantoli, Near Gangasagar Water Tank,
Ram Nagar, Wardha.
Taluka and District Wardha.

..... **RESPONDENTS**

Shri N.S.Warulkar, Advocate for petitioner.
Ms K. R. Deshpande, Assistant Government Pleader for respondent nos. 1 & 2.
Shri S.S.Shingane, Advocate for respondent nos. 3 and 4.

CORAM :- A.S.CHANDURKAR AND URMILA S. JOSHI-PHALKE, JJ.

DATE :- JUNE 17, 2022.

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The petitioner was appointed on the post of 'Peon' on compassionate basis on 06.02.2009. His appointment was duly approved by the Deputy Director of Education on 18.06.2009. The petitioner was subsequently promoted in the post of 'Junior Clerk' on 01.03.2016. After his promotion a proposal seeking approval to the promotion of the petitioner was forwarded to the Deputy Director of Education. On 21.06.2016 certain deficiencies in the said proposal were informed to the Management. These deficiencies were subsequently removed and the approval was accordingly sought. By the order dated 31.12.2019 the Deputy Director of Education refused to grant approval to the promotion of the petitioner on the post of 'Junior Clerk' principally on the ground that there were certain disputes in the Management. The request made to re-consider that order has been turned down on 02.02.2021. These orders are under challenge in the present writ petition.

3. After hearing the learned counsel for the parties and after perusing the documents on record, it is seen that the Deputy Director of Education has principally refused to grant approval to the promotion of the petitioner on the ground that there were *inter se* disputes in the Management. In *Navnath s/o Narsing Gore vs. State of Maharashtra and others 2021 (6) Mh L J 118* this Court has held that existence of such disputes, if any, have no nexus or connection with the selection or appointment of the staff and grant of approval. Since the existence of disputes appears to be the only reason for refusing to grant such approval coupled with the fact that the petitioner's initial appointment on the post of 'Peon' was already approved, we are inclined to direct the Deputy Director of Education to re-consider the proposal submitted by the Management for grant of approval to the petitioner's promotion.

4. Accordingly, for reasons aforesaid, the order dated 31.12.2019 and 02.02.2021 are set aside. The Deputy Director of Education shall re-consider the Management proposal for grant of approval to the promotion of the petitioner. To facilitate such adjudication, the Management-respondent nos. 3 and 4 and the petitioner shall appear before the Deputy Director of Education, Nagpur Division, Nagpur on **27.06.2022** with all relevant records. The Deputy Director of Education shall decide the said proposal within a

period of four weeks from the date of appearance of the parties before it after considering the judgment of this Court in *Navnath s/o Narsing Fore* (supra). The decision taken be communicated to the parties. All points raised are kept open.

Rule is made absolute in aforesaid terms. No costs.

(URMILA S. JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)

Andurkar..