

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION (WP) NO. 3883/2021

1. Yashpal Natthu Nandeshwar,
aged about 34 years,
occ. Service- Laboratory Assistant
r/o at post Jhargaon
Tq. And District Bhandara.
2. Sachin Mukundrao Titarmare,
aged about 28 years,
occ. Service – laboratory Assistant
r/o Samartha Nagar, Murmadi-Sawari,
at Post Lakhni, District Bhandara.
3. Nilesh Chandrakant Warkhede,
aged about 31 Years,
occ. Laboratory Attendant
r/o at the backside of Kumar
Petrol Pump, at post Lakhni,
District Bhandara.
4. Maniram Hiwaraj Raut,
aged about 32 years,
occ. Peon, at post Kesalwada-Wagh,
Tq. Lakhni, District Bhandara.
5. Vilas Santosh Raut,
aged about 36 years,
occ. Service-peon,
r/o at post Kesalwada-Waugh,
Tq. Lakhani, District Bhandara.
6. Ku. Chhaya Gulab Kadav,
aged about 38 years,
occ. Librarian, r/o at Indurkha,
post Warthi,
Tq. And District Bhandara.

..... PETITIONER(S)

// VERSUS //

1. The State of Maharashtra,
Department of Sports &
Education, Mantralaya,
Mumbai 400 032 through
its Secretary
2. Director of Education (Secondary
& Higher Secondary), Education
Directorate, Pune, Maharashtra State.
3. Director of Education,
Nagpur Division, Nagpur.
4. Lakshmi Shikshan Sanstha and
Krida Mandal Kesalwada-Wagh,
at post Kesalwada
Tq. Lakhni, District Bhandara
through its Secretary.
5. Late Nirdhanrao Patil Waghaye
Sainiki Vidyalaya, Lakhani,
Tq. Kakhani, District Bhandara,
through Headmaster.

.... RESPONDENT(S)

Mrs. Radhika D. Raskar, Advocate for the petitioners
Miss. Nivedita P. Mehta, AGP for respondent nos. 1 to 3
Shri Shrey R. Damhare with Shri Sanket A. Walde, Advocates for the
respondent nos. 4 and 5

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

DATED : 08/07/2022

ORAL JUDGMENT : (PER:- A. S. CHANDURKAR, J.)

Rule. Rule made returnable forthwith. Heard the learned
counsel for the parties.

2 Pursuant to the advertisement dated 03.08.2010 issued by
the respondent nos. 4 and 5 after receiving permission for filling in

various posts at the respondent no. 5 – school, the petitioners were issued orders of appointment on 09.10.2010. The respondent nos. 4 and 5 sought grant of approval to the appointments of the petitioners by issuing various communication. The Deputy Director of Education however has rejected the approval on 28.08.2017 principally by relying upon the Government Resolutions dated 23.10.2013 and 12.02.2015. The petitioners have in turn relied upon communication dated 03.11.2018 issued by the Director of Education recommending the grant of approval to the appointments of the petitioners. In the aforesaid backdrop, the order dated 28.08.2017 rejecting the grant of approval is under challenge.

3. After hearing the learned Counsel for the parties and perusing the documents on record, we find that permission for filling the said posts was duly granted after which the said posts were advertised. The petitioners were thereafter issued orders of appointment and the Management has placed on record various representations in the matter of grant of approval. While rejecting the said proposal the Deputy Director of Education has relied upon subsequent Government Resolutions that were issued after the petitioners were appointed. The Director of Education in his communication dated 03.11.2018 has however found that the appointments of the petitioners were liable to be approved.

4. In the light of aforesaid, we are inclined to direct the respondent no. 3 to re-consider the proposal for grant of approval to the petitioners' appointments. Hence, the following order is passed:-

(a) Order dated 28.08.2017 passed by the Deputy Director of Education is set aside.

(b) The respondent no. 3 shall re-consider the proposal for grant of approval to the appointments of the petitioners by considering the position as was prevailing when they were appointed and after taking into consideration the communication dated 03.11.2018 issued by the Director of Education.

(c) Necessary process be completed within a period of eight weeks from the receipt of the copy of the judgment. Decision thereon be communicated to the petitioners and the respondent no. 4.

5. Rule is made absolute in the aforesaid terms with no order as to costs.

(URMILA JOSHI-PHALKE, J.) (A.S.CHANDURKAR, J.)

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