

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

WRIT PETITION NO.3658/2021

Amol s/o Diliram Kapgate,
aged 37 years, Occ. Service,
r/o Gondumri, Tq. Sakoli, Dist.
Bhandara.

.....PETITIONER

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

1. State of Maharashtra, through
Secretary, Mantralaya, Mumbai-01
2. Deputy Director, Education Department,
Nagpur Division, Nagpur.
3. The Headmaster, Lal Bahadur
Higher Secondary School,
Gondumri, Tahsil Sakoli,
District Bhandara.
4. Secondary Education Society,
Sakoli, through its President/
Secretary, Sakoli, Tahsil Sakoli,
District Bhandara, Near Kapgate
Petrol Pump.

...RESPONDENTS

Mr. Akshay Sudame, Advocate for petitioner.
Mr. K. L. Dharmadhikari, A.G.P. for respondent nos.1 and 2.

CORAM:- ROHIT B. DEO & ANIL L. PANSARE, JJ.
DATED :- 18.08.2022

JUDGMENT (Per: Anil L. Pansare, J.)

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

2. The petitioner is aggrieved by order dated 15.01.2020 passed by respondent no.2-Deputy Director of Education Department, Nagpur Division, Nagpur whereby approval granted to the petitioner vide order dated 19.03.2020 to the post of Shikshan Sevak at Lal Bahadur Higher Secondary School, Gondumri, has been rejected.

3. We have considered the rival submissions. The contention of the petitioner is that the respondent no.2 could not have reviewed his own order granting approval to the appointment of the petitioner as Shikshan Sevak.

4. We have gone through the impugned order. It appears that the approval has been withdrawn on the ground

that the proposal for approval sent by the management did not disclose pendency of the dispute between the trustees in respect of management of affairs of the trust before the Hon'ble Supreme Court. We find this approach of respondent no.2 to be erroneous. It is nobody's case that the petitioner has been appointed without following the due process of law nor is it the case of anybody that the petitioner has entered service through backdoor or that he does not possess the requisite qualification. In the circumstances, merely because a dispute between the trustees inter se is pending before the Hon'ble Supreme Court, the respondent no.2 could not have reviewed his own order.

4. In that view of the matter, the writ petition deserves to be allowed. Rule is made absolute in terms of prayer clauses (1) and (2) which read thus:

(1) Quash and set aside order dated 15/12/2020 (Annexure-I) passed by Deputy Director of Education, Nagpur Division, Nagpur i.e. respondent no.2, whereby approval granted vide order dated 19/3/2000 (Ann.VIII) to the post of

Shikshan Sevak of the petitioner at Lal Bahadur Higher Secondary School, Gondumri, Tahsil: Sakoli, District : Bhandarar is refused/rejected.

(2) Direct the respondents to continue petitioner in service and pay him regular salary in the interest of justice.”

No order as to costs.

(Anil L. Pansare, J.)

(Rohit B. Deo, J.)

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