

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

WRIT PETITION NO. 2029 OF 2021

Pawan Nivrutti Ingle,
Aged about 37 years,
Occupation – Service,
R/o Gokul Nagar, Jafrabad Road,
Chikhli, Taluka Chikhli, District Buldana.

PETITIONER

.....VERSUS.....

1. State of Maharashtra,
through its Secretary, Department of School Education & Sports,
Mantralaya, Mumbai – 400032.
2. The Education Officer (Secondary),
Buldana, Taluka and District Buldana.
3. Maharana Pratap Shikshan Sanstha,
Akola, through its President Dnyandeo Narayan Ingle.
4. Maharana Pratap Vidyalaya,
Veer Sawarkar Nagar, Rautwadi Stop,
Chikhli, Taluka Chikhli, District Buldana.

RESPONDENTS

WITH

WRIT PETITION NO. 1256 OF 2021

Yogesh Prakashsingh Parihar,
Aged about 28 years,
Occupation – Service,
R/o Gajanan Nagar, Ward No. 17,
Chikhli, Taluka Chikhli, District Buldana.

PETITIONER

.....VERSUS.....

1. State of Maharashtra,
through its Secretary, Department of School Education & Sports,
Mantralaya, Mumbai – 400032.
2. The Education Officer (Secondary),
Buldana, Taluka and District Buldana.
3. Maharana Pratap Shikshan Sanstha,
Akola, through its President Dnyandeo Narayan Ingle.

4. Maharana Pratap Vidyalaya,
Veer Sawarkar Nagar, Rautwadi Stop,
Chikhli, Taluka Chikhli, District Buldana.

RESPONDENTS

Shri M.V. Samarth, Senior Advocate with Shri V.P. Ingle, Advocate for the
petitioners.

Ms. S.S. Jachak, Assistant Government Pleader for respondent Nos. 1 and 2/
State.

Shri R.S. Kalangiware, Advocate for respondent Nos. 3 and 4.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 18/11/2022

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

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

2. The challenge raised in both these Writ Petitions is to the rejection of the prayer for grant of approval to the appointments of the petitioners on the post of Shikshan Sewak. It is the case of the petitioners that pursuant to the vacancies arising at the respondent No.4 – School which was being run by respondent No.3 – Society, the petitioners came to be recruited after following the prescribed procedure. The Management submitted the proposal seeking grant of approval on 7/3/2019. Since the proposal was not being considered, the petitioners had approached this Court in Writ Petition No. 8414/2019. This Court had directed the Education Officer (Secondary) to take a decision in the matter. Pursuant thereto, on 13/3/2020, an order has been passed refusing to approve the appointments of the petitioners.

3. The learned Senior Counsel for the petitioners submitted that the petitioners were appointed after following the due procedure. Being duly qualified and having been appointed on vacant sanctioned posts, their appointments were liable to be verified. However, without considering the requisite material, the proposal has been rejected. An attempt was made to demonstrate the aspect that the deficiencies mentioned in the impugned order were non-existent. It was therefore submitted that the approval was liable to be granted to the petitioners' appointments.

4. The learned Assistant Government Pleader appearing for respondent Nos. 1 and 2 supported the impugned order. By placing an additional affidavit on record, it has been stated that pursuant to retirement of two Assistant Teachers in the months of April and May – 2017, the petitioners were appointed pursuant to the advertisement as issued. Though, an application seeking permission to publish the advertisement was made, the same was not considered. It is therefore submitted that the approval has been rightly rejected.

The learned Counsel for respondent Nos. 3 and 4 supported the stand of the petitioners.

5. On hearing the learned Counsel for the parties and after perusing the documents on record, we find that the aspect whether the

deficiencies mentioned in the impugned order have been removed is a matter to be considered by the Education Officer (Secondary). At the same time, the reason for issuing the advertisement after making an application for the same and prior to such permission being granted has also to be considered by the Education Officer (Secondary). It is therefore necessary for the Education Officer (Secondary) to apply his mind to the material on record and consider the proposal afresh.

6. For the aforesaid reasons, the following order is passed :

i. The order dated 13/3/2020 passed by the Education Officer (Secondary) in both the Writ Petitions is set aside. The Education Officer (Secondary) is directed to re-consider the aforesaid proposal by granting due opportunity of hearing to respondent Nos. 3 and 4 as well as to the petitioners. To enable such exercise to be undertaken, the petitioners along with respondent Nos. 3 and 4 shall attend the office of the Education Officer (Secondary) on 3/12/2022. A decision on the said proposal be taken within a period of four weeks from that date and the same be communicated to the parties.

ii. Rule is made absolute in the aforesaid terms. No costs.

(M.W. CHANDWANI, J.)

(A.S. CHANDURKAR, J.)