

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

WRIT PETITION NO. 4173 OF 2018

1. Eknath Chandrabhanji Lampuse.
Aged-34 years, Occupation-Service.
2. Nikhil Haridas Shende,
Aged-30 years, Occupation-Service.
3. Ku.Rajani Manmohan Dubey,
Aged-39 years, Occupation-Service.

All the petitioners are
 R/o C/o. Eknath Chandrabhanji Lampuse,
 R/o. Bale Lay Out, Nagpur Road,
 Saoner, District Nagpur.

..... **PETITIONERS**

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

1. Deputy Director of Education,
Nagpur Division, Nagpur.
2. The Education Officer(Secondary),
Zilla Parishad, Nagpur.
3. High School Society, Saoner,
District Nagpur, through its Secretary-
C/o Bhalerao High School, Saoner,
District Nagpur.
4. Bhalerao High School,
Saoner, District Nagpur,
through its Head Master.

..... **RESPONDENTS**

Shri P. N. Shende, Advocate for petitioners.
 Ms K. R. Deshpande, Assistant Government Pleader for respondent nos. 1 & 2.
 None for respondent nos. 3 and 4 though served.

CORAM :- A.S.CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.
DATE :- AUGUST 04, 2022.

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

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

2. The respondent nos. 3 and 4 sought to fill in the post of 'Lower Division Teacher' by making an application to the Education Officer (Secondary) for permission to undertake recruitment process for the same. The applications dated 28.04.2021 and 02.05.2012 were considered by the Education Officer (Secondary) and on 02.05.2012 permission to fill in three posts of 'Lower Division Teacher' was granted. Two posts was kept for the candidates from the 'Open' category and one post for the candidates from 'Scheduled Caste' category. After following the due procedure, the petitioners were appointed. Their appointments were initially approved on 01.11.2013 for the period of probation and thereafter on 20.11.2015 until further orders. By the impugned order dated 22.05.2018 the approval granted to the appointment of the petitioners has been revoked on the ground that the appointments have been made after 02.05.2012. That order is under challenge in the present writ petition.

3. Shri P. N. Shende, learned counsel for the petitioners submits that after following the due procedure the petitioners have been appointed. The application for permission to fill in the posts was made on 28.04.2012 which is prior to issuance of the Government Resolution dated 02.05.2012. The only reason given by the Education Officer (Secondary) for cancelling the approval was the Government Resolution dated 02.05.2012. Inviting attention to the subsequent Government Resolution dated 24.08.2018, it is submitted that as per Clause 8 thereof it has been directed that if the approval has been cancelled only on the ground that the appointment has been made after 02.05.2012 though those orders shall be reviewed and the fresh orders should be passed. It is therefore prayed that the impugned order is liable to be set aside.

4. Ms K. R. Deshpande, learned Assistant Government Pleader for the respondent nos. 1 and 2 has relied upon the affidavit in reply and has supported the impugned order. It is stated that since the petitioners were appointed after 02.05.2012, their appointments were rightly cancelled.

5. On hearing the learned counsel for the parties, we find that the application for seeking permission to undertake the recruitment process is dated 28.04.2012 and 02.05.2012. It is seen that the entire procedure has been followed after which the appointments have been approved. The

impugned order indicates only one reason that since the appointments were made after 02.05.2012, they were not liable to be approved. We however find that the School Education Department has itself taken a decision on 24.08.2018 to review and re-consider such proposals for approval where approval has been cancelled on the ground that the recruitment has been made after 02.05.2012.

6. In the aforesaid facts, the Government Resolution dated 24.08.2018 would be applicable. Hence the order dated 22.05.2018 passed by the respondent no.1-Deputy Director of Education, Nagpur Division, Nagpur is set aside. The respondent no.1 shall re-consider the matter in the light of the Government Resolution dated 24.08.2018 and take a fresh decision in accordance with law. The petitioner as well as the respondent no.4-Head Master shall be granted an opportunity of hearing if it proposes to withdraw the order of approval.

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

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)