

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

37 WRIT PETITION NO. 8387 OF 2023

MAHENDRA HARILAL CHAVAN
VERSUS
THE EDUCATION OFFICER PRIMARY ZILLA PARISHAD
JALGAON AND ANOTHER

...
Advocate for Petitioner : Mr. Pawar Rahul S.
AGP for Respondent No. 1 : Mr. P.S. Patil
Advocate for Respondent No. 2 : Mr. S.R. Dheple
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 17 JULY 2023

PC :

Heard the learned Advocate for the petitioner, learned AGP for respondent no. 1 and learned Advocate Mr. Dheple, who appears *suo moto* on behalf of respondent no. 2.

2. The petitioner is aggrieved by the order passed by the respondent no. 1, thereby, refusing to grant approval to the petitioner's appointment for variety of reasons as indicated therein.

3. Learned Advocate for the petitioner submits that, it is a matter of grant of approval. It is not a matter where the respondent no.1 was called upon to adjudicate something. It is an administrative power which he was exercising. He could have called upon the petitioner to demonstrate several compliance in respect of which, according to him, the proposal was falling short. In similar set of facts,

the other staff members of the same Management have been granted approval. The petitioner and even the respondent no. 2 – Management may be extended an opportunity to once again go before the respondent no. 1 – Education Officer, and make an endeavour to satisfy him about legality of the initial appointment.

4. Learned Advocate for the respondent no. 2 – Management also submits that Management would co-operate the Education Officer and furnish the record for rendering him to pass appropriate order.

5. Learned AGP submits that there is no illegality in the impugned order and there is no reason why the matter should be reconsidered.

6. We have perused the papers and appreciated the arguments. At the outset, it is necessary to note that it is a matter of grant of approval to the appointment. The Education Officer could have taken its own time in taking a final decision and called upon the Management and the petitioner to demonstrate if there was a compliance with whatever shortcomings, those were noticed and which was basis for passing the impugned decision.

7. In our considered view, the request to go before the respondent no. 1 – Education Officer, once again is innocuous. If the petitioner and respondent no. 2 – Management are able to satisfy the

Education Officer, about the initial appointment having been made pursuant to the law and the shortcomings which have been indicated, in fact are either complied with or not arise, they deserve to be extended the opportunity.

8. It is not an adversarial issue.

9. Writ Petition is partly allowed. The impugned order is quash and set aside. The matter is remitted back to the respondent no. 1 – Education Officer (Secondary), Zilla Parishad, Jalgaon, for decision afresh on its own merits by extending an opportunity to the petitioner and respondent no. 2 of being heard. All the issues are kept open. The decision shall be taken as expeditiously as possible and in any case within a period of six weeks from today.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

spc/