

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 15572 OF 2023

Shri. Sharad Shankar Pawar,	}	
Age: 42 years, Occupation : Service,	}	
R/o. A/P. Panumbre-Warun, Taluka: Shirala,	}	
District: Sangli.	}..	Petitioner

Versus

- | | | |
|---------------------------------------|-----|-------------|
| 1. The State of Maharashtra | } | |
| Through the Secretary, | } | |
| School Education & Sports | } | |
| Department, Mantralaya, | } | |
| Mumbai-400 032 | } | |
| 2. The Commissioner of Education | } | |
| School Education Department, | } | |
| Maharashtra State, Pune. | } | |
| 3. The Director of Education, | } | |
| (Secondary and Higher Secondary), | } | |
| Maharashtra State, Pune-1. | } | |
| 4. The Deputy Director of Education, | } | |
| Kolhapur Region, Kolhapur | } | |
| Having office at, Hatti Mahal, Ganji | } | |
| Galli, Somwar Peth, Kolhapur. | } | |
| 5. The Education Officer (Secondary), | } | |
| Zilla Parishad, Sangli, Having Office | } | |
| at, Secondary Education Department, | } | |
| Zilla Parishad Building, Sangli. | } | |
| 6. Param Puja Swami Vivekanand | } | |
| Sevashram Sanstha, Shirala, | } | |
| Taluka : Shirala, District : Sangli. | } | |
| Through its President/Secretary. | } | |
| 7. Shri. Maruti Secondary and Higher | } | |
| Secondary School, Charan, | } | |
| Taluka : Shirala, District : Sangli. | } | |
| Through its Head Master. | }.. | Respondents |

...
Mr. Prashant Bhavake for the Petitioner.
Ms. A. A. Purav, AGP for the Respondent Nos. 1 to 5.

...

**CORAM : A.S. CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ**

DATE : 20TH DECEMBER, 2023.

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

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

2. Considering the nature of order proposed to be passed service on Respondent Nos. 6 and 7 is dispensed with.

3. Learned Assistant Government Pleader waives notice for Respondent Nos. 1 to 5. The Petitioner came to be appointed on the post of Shikshan Sevak on 14/06/2012. The proposal seeking approval to his appointment came to be initially rejected on 12/10/2021. This order was assailed by the Petitioner in Writ Petition No. 2188 of 2022. While deciding the said Writ Petition on 06/06/2022, this Court in Paragraph No.4 observed as under :-

4. The staffing pattern when the Petitioner was appointed is relevant to be considered. The Petitioner claims to have been appointed on 14th June 2012. The relevant staffing pattern would be of the year 2012-2013. If after the appointment of the Petitioner and in the next academic year the post is reduced, then the

further consequences would follow. However, for seeking an approval to the appointment, the relevant date of the staffing pattern has to be the date on which the Petitioner was appointed.

4. After remand, the said proposal has again been rejected by Education Officer (Secondary) by observing that for the period from 2013-2014 to 2018-2019, there was no vacant post and hence, the appointment of Petitioner cannot be approved.

5. We find that despite the clear directions issued by this Court in the earlier round of litigation, the Education Officer (Secondary) has assigned the same reasons that were assigned in the earlier order dated 12/10/2021. It is clear that without considering the aforesaid directions the proposal has been rejected.

6. For the aforesaid reasons, the order dated 16/02/2023 is set aside. The Education Officer (Secondary) shall re-consider the proposal dated 04/07/2022 in accordance with the directions that were issued in Writ Petition No.2188 of 2022. Within the period of four weeks of receiving copy of this order, the said proposal shall be decided. If it is found that the proposal is rejected for irrelevant reasons, the Court would consider imposing costs upon the Education Officer (Secondary) in case such order is challenged.

7. Keeping all points raised on merits open, the Writ Petition is allowed and disposed of in aforesaid terms.

8. Needless to state that if the approval is granted, all consequential benefits shall be made applicable to the Petitioner.

[FIRDOSH P. POONIWALLA, J] [A.S. CHANDURKAR, J.]