

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10798 OF 2022

Vishwas Ganpati Patil,]
Age : 44 Yrs., Occ.: Service,]
R/o. A/P, Nivade, Tal. Panhala, Dist. Kolhapur.] .. 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 Somwar Peth, Hatti Mahal,]
Ganji Galli, Kolhapur – 416 002.]
5. The New Education Society,]
Having office at 1014 'A' Ward,]
New Mahadwar Road, Kolhapur,]
Through its President / Secretary]
6. Junior College of Education (DLEd),]
Petala, New Mahadwar Road, Kolhapur,]
Through its Principal.] .. Respondents

Mr. Prashant Bhavake for the Petitioner.

Mr. S.B. Kalel, AGP for Respondent Nos.1 to 4–State.

Mr. Utkarsh Desai for Respondent Nos.5 and 6.

CORAM : A.S. CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ
DATE : 4TH DECEMBER, 2023.

ORAL JUDGMENT : { Per A.S. Chandurkar, J. }

1. RULE. Rule made returnable forthwith and heard finally by consent of learned counsel for the parties.

2. The petitioner, who came to be appointed on the post of Shikshan Sevak on 28th October 2013, is aggrieved by the communication dated 4th October 2021 issued by the Deputy Director of Education, Kolhapur Division, Kolhapur, rejecting the proposal seeking approval to the petitioner's appointment on the post of Shikshan Sevak, after noticing various deficiencies therein. It is submitted by the learned counsel for the petitioner that without indicating the said deficiencies and granting an opportunity to remove the same, the impugned communication rejecting the proposal of the petitioner has been issued.

3. We find that the impugned communication proceeds to return the proposal only on the ground that there were various deficiencies in the same. It would have been in the fitness of things for the Deputy Director of Education to have first indicated the deficiencies and thereafter granted an opportunity to the concerned parties to remove the same. Since this course has not been followed, we find that for want of opportunity to remove the deficiencies, the petitioner has been prejudiced. An opportunity to remove the deficiencies deserves to be granted to the petitioner.

4. Accordingly, the following order is passed :-

- (i) The impugned communication dated 4th October 2021 issued by the Deputy Director of Education, Kolhapur Division, Kolhapur is set aside.
- (ii) The deficiencies indicated in the proposal of the petitioner shall be removed by the petitioner as well as respondent nos.5 and 6 and a fresh proposal thereafter shall be accordingly submitted in the office of respondent no.4.
- (iii) After receiving such fresh proposal, respondent no.4 shall consider the same and take a decision thereon within a period of six weeks of receiving the entire documents.
- (iv) The parties can seek an opportunity of hearing before such decision is taken.
- (v) Respondent no.4 shall communicate its decision to the petitioner as well as respondent nos.5 and 6.
- (vi) Keeping all points raised on merits open, the writ petition is disposed of with the aforesaid directions.
- (vii) Needless to state that, in case the appointment of the petitioner is approved, all consequential steps following the same shall be taken.

5. Rule is disposed of in the above terms.

[FIRDOSH P. POONTWALLA, J.]

[A.S. CHANDURKAR, J.]