

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3082 OF 2023

Shri Narayan M. Shendage]
Age: 38 years, Occupation: Service,]
R/o. A/P. Savarde-Parankar,]
Tal. Radhanagari, District – Kolhapur.] .. Petitioner.

v/s.

1 The State of Maharashtra]
Through the Secretary, School]
Education and 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, Kolhapur, having]
office at Zilla Parishad Building,]
Nagala Park, Kolhapur.]
6 Shri Datta Shikshan Prasarak]
Mandal, Panutre, having office at]
Kale, Tal. Panhala, Dist. Kolhapur]
through its President/ Secretary.]
7 Vitthal Patil High School and Junior]
Collegel, Kale, Taluka : Panhala,]
Dist. Kolhapur, through its]
Head Master.] .. Respondents.

Mr. Prashant Bhavake, for the Petitioner.
Mr. S. L.Babar, AGP for Respondent No.1-State.
Mr. Utkarsh Desai, for Respondent Nos. 6 & 7.

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

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

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

2 Leave granted to the Petitioner to raise the challenge to the communication dated 27th September, 2022 issued by the Education Officer (Secondary), Zilla Parishad, Kolhapur thereby refusing approval to the Petitioner's appointment on compassionate basis.

3 The Petitioner's father was working on the post of 'Peon' at Respondent No.7 – School from 20th March, 1997. Petitioner's father expired on 21st June, 2006 pursuant to which, the Petitioner was appointed on compassionate ground vide appointment order dated 31st January, 2007.

4 In the matter of granting approval to his appointment, initially, on 15th March, 2022, a proposal dated 15th December, 2021 had been submitted by the Management which was not considered in view of certain deficiencies therein. The Head Master removed the said deficiencies and submitted the relevant documents vide communication dated 23rd May, 2022. Thereafter, on 27th September, 2022, the proposal was refused by relying upon the direction issued by the State Government vide communication dated 14th September, 2022. The impugned communication indicates that the proposal seeking approval had been rejected on the ground that the appointment of the Petitioner was made

prior to 10 years and, hence, it was not liable to be approved.

5 A copy of the affidavit on behalf of the Respondent No.1 is tendered in Court, which is taken on record.

6 Having heard the learned Counsel for the parties and having perused the documents on record, we find that the reference made in the impugned communication to the directions issued on 14th September, 2022 is misplaced in the facts of the present case for the reason that the Petitioner was appointed on compassionate ground within a period of one year of his father's death. Hence, clause (iii) of the directions dated 14th September, 2022 would not be attracted. That is the only ground on which the Petitioner's proposal has not been approved.

7 For the aforesaid reasons, the impugned communication dated 27th September, 2022 issued by the Education Officer (Secondary), Zilla Parishad, Kolhapur is set aside. The Education Officer (Secondary) shall re-consider the proposal dated 15th December, 2021 along with documents submitted by way of compliance dated 24th May, 2022. The proposal shall not be rejected by relying upon the directions dated 14th September, 2022. In case the Petitioner does not fall within the purview of these directions, the necessary decision shall be taken within a period of four weeks from receiving copy of this order.

8 Keeping all points raised in the Writ Petition open, it is disposed of with directions to the Education Officer (Secondary), Zilla Parishad, Kolhapur to decide the proposal and communicate the decision taken to the Petitioner.

9 In case approval is granted to the Petitioner's appointment, all consequential benefits shall be made admissible to him.

10 Rule accordingly with no order as to costs.

(FIRDOSH P. POONTIWALLA,J.)

(A.S. CHANDURKAR,J.)