

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

WRIT PETITION NO.11680 OF 2022

Wajid Inam Naikwadi & Ors .. Petitioners
Vs.
State of Maharashtra & Ors .. Respondents

WITH

WRIT PETITION NO.11683 OF 2022

Noman Zuber Palegar & Ors .. Petitioners
Vs.
The State of Maharashtra & Ors .. Respondents

Mr. Chetan Patil i/by Mr. Mandar G. Bagkar for the Petitioners.
Mr. K.S. Thorat, AGP for the Respondent-State in
WP/11680/2022.
Mr. V. M. Mali, AGP for Respondent-State IN WP/11683/2022.

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

DATE : 28TH NOVEMBER, 2023.

P.C. :

1. Rule. Rule is made returnable forthwith.
2. Heard learned counsel for the parties.
3. The Petitioner no.1 came to be appointed on the post of Junior Clerk on 01/01/2021 and 01/08/2021 with the Petitioner no.3. The proposal for grant of approval came to be rejected by the Education Officer (Secondary) for the reason that there was a ban pursuant to the Government Resolution dated 04/05/2020.
4. According to the learned counsel for the Petitioner, though such ban on recruitment was operating pursuant to Government

Resolution dated 04/05/2020 as observed by the co-ordinate Bench in Writ Petition (St) No. 4493/2022 the post in question cannot perpetually remain vacant. Since the Petitioner was appointed after following the due process of law, the ban on recruitment cannot be put forth to refuse consideration of the proposal for grant of approval.

5. The learned Assistant Government Pleader has relied upon the affidavit-in-reply filed on behalf of the Education Officer, Secondary stating therein that the proposal was rejected only for that reason.

6. The issue with regard to refusal to grant approval in view of the ban on recruitment pursuant to Government Resolution dated 04/05/2020 has been the matter of consideration by this Court in various Writ Petitions. In the case of **Gramvikas Shikshan Mandal & Ors** (*supra*), this Court has observed that such posts cannot be permitted to remain vacant for an indefinite period. The facts of the present case indicate that the recruitment has been made on 01/02/2021 and 01/08/2021 during which time, the pandemic situation had partly subsided. We find in addition that the Petitioner no.3 School is a minority institution and therefore, we deem it appropriate to direct reconsideration of the proposals seeking such approval.

7. Accordingly, the following order is passed :

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ORDER

(i) The orders dated 08/07/2022 and 09/07/2022 respectively passed by the Education Officer (Secondary) refusing to grant approval to the appointment of the Petitioner are set aside. The Education Officer, Secondary to reconsider the respective proposals in accordance with law. He shall not reject the same by relying upon the Government Resolution dated 04/05/2020. Necessary decision on said proposals be taken within period of 8 weeks of providing copy of this judgment.

(ii) Needless to state that in case the appointment of the Petitioners is approved, the Deputy Director of Education, shall take all consequential steps in accordance with law.

(iii) Rule is made in the aforesaid terms with no order as to costs. Writ petition is disposed of.

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