



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11592 OF 2023

Dr. Balasaheb Maruti Kendale,

Age : 56 years, Occupation : Professor,

R/o.Flat No.12, Anushka Smrudhi,

Survey No.33/1/10, Behind Bharati Vidyapeeth,

Ambegaon (Bk.), Pune – 411 046.

...Petitioner

Vs.

1. State of Maharashtra,
Through Higher and Technical Education,
Mantralaya, Mumbai – 400 032.
2. Director (Higher Education),
Pune Regional Office, Central Building,
Pune – 411 001.
3. Samaj Shikshan Mandal,
Through its Secretary,
Vinzar, Tahsil – Velha,
Dist. Pune – 412 213.
4. Amruteshwar Arts, Commerce & Science College,
Through its Principal,
Vinzar, Tahsil – Velha,
Dist. Pune – 412 213.
5. University Grants Commissioner,
Through its Secretary,
Bahadur Shah Zafar Marg,
New Delhi – 110 002.
6. Savitribai Phule Pune University,
Through its Registrar,
Ganeshkhind, Pune – 411 007.

.. Respondents

- Mr. Sidheshwar Biradar, for the Petitioner.
- Ms Ashwini A. Purav, AGP for Respondent Nos.1 & 2.
- Ms. Deepali Deherkar, for Respondent Nos.3 & 4.

**CORAM : SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ**

DATE : 27th SEPTEMBER, 2023

ORAL JUDGMENT : {Per : Sunil B. Shukre, J.}

1. Heard learned counsel for the petitioner, learned AGP for Respondent Nos.1 and 2 and learned counsel for Respondent Nos.3 and 4, both of whom appear by waiving notice on behalf of Respondent Nos.3 and 4. Although, notice has been issued to Respondent Nos.5 and 6, their presence before this Court is not necessary as no relief has been claimed against them.

2. **RULE.** Rule made returnable forthwith and with the consent of the parties, heard finally at the admission stage.

3. The only grievance of the petitioner is that the application that he has made for his appointment to the post of Principal in response to the advertisement issued by Shri. Shivaji Maratha Society's Appasaheb Jedhe College, Shukrawar Peth, Pune, which is required to be forwarded through the proper channel i.e. the present employer of the petitioner represented by Respondent Nos.3 and 4, is not being forwarded through the Secretary of Shri. Shivaji Maratha Society's Appasaheb Jedhe College, Pune. The petitioner, is therefore, seeking appropriate direction to Respondent Nos.3 and 4. Generally speaking,

we must say that, every citizen of India has a right to take effort to improve his position in life and that includes right of an employee to improve his position in service. This right is one of the facets of right to life and the liberty guaranteed under Article 21 of the Constitution of India. Therefore, ordinarily speaking, the other persons must not do something which would create obstacles for a citizen of India in enforcing his right to take effort for improving his position in life. That means any employer who receives a request for forwarding of an application made by his employee for betterment of his service prospects elsewhere, should ordinarily forward it with due promptitude to the agency or employer to whom its addressed, unless there are some compelling reasons for the employer to refrain from doing so. These reasons, of course, would have to answer the test of reasonableness as envisaged under Articles 14 and 21 of the Constitution of India. But in the ordinary course of circumstances, the fact remains that the employer would be duty bound to forward such an application to the authority or a person to whom it is addressed with a reasonable despatch. Of course, while doing so, the employer would be within his rights to impose such reasonable conditions as he thinks fit, but he must not, as stated earlier, in the ordinary course of circumstances, sit over the application.

4. In the circumstances,. we are inclined to partly allow the petition with following directions:-

- (i) We direct Respondent Nos.3 and 4 to consider and decide the application of the petitioner dated 01.09.2023 requesting them to forward his two applications made by him in order to seek betterment of his service prospects to the authority to whom those

applications are addressed, within a period of two weeks from the date of the order, keeping in view the observations as made hereinabove.

5. Rule is made absolute in the above terms.
6. Petition is disposed of accordingly. No costs.

[FIRDOSH P. POONIWALLA, J.]

[SUNIL B. SHUKRE, J.]