

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2000 OF 2020

Amlaprasad Rajpati Yadav	] .. Petitioner
Vs.	
1. The State of Maharashtra,	]
Thru School Education & Sports Department	]
2. The Commissioner of Education,	]
School Education Department	]
Maharashtra State, Pune	]
3. The Director of Education,	]
(Secondary and Higher Secondary),	]
Maharashtra State, Pune	]
4. The Deputy Director of Education,	]
Mumbai Region, Mumbai	]
5. The Education Inspector (West Zone),	]
Brihanmumbai	]
6. Malad-Kandivli Education Society, Mumbai	]
7. Sheth Nahalchand Laloochand High School, Mumbai	] .. Respondents

Mr. Prashant Bhavake for the Petitioner.

Mr. S.B. Kalel, AGP for Respondent Nos.1 to 5-State.

Mr. Hemant Mehta, with Mrs. Jinal Mehta and Ms. Anamika Tiwari, i/by Mehta & Co., for Respondent Nos.6 and 7.

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

DATE : 21ST AUGUST, 2023.

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

1. RULE. Rule made returnable forthwith. Heard finally, by consent of learned counsel for the respective parties.

2. The petitioner, initially appointed as Assistant Teacher, has been promoted to the level of “Supervisor” and was appointed as “Supervisor”, as per the Resolution passed by the then Managing Committee dated 31st October 2018, w.e.f. 1st September 2018. However, approval to such appointment of the petitioner has been refused by the Education Officer on the ground that the resolution could not have been passed granting approval to the appointment of the petitioner from a previous date. In fact, this is not a case wherein the appointment has been made prior to passing of the resolution but has been made in pursuance of the Resolution dated 31st October 2018, although the appointment has been made w.e.f. 1st September 2018. Therefore, we find that the approval has been rejected erroneously by the Education Officer.

3. In almost identical situations, resolutions had been found by the Division Bench of this court as containing a technical error and, therefore, it directed that the initial approvals granted to those appointments which were subsequently cancelled be restored. Of course, in those cases, the Division Bench had also found that the appointments made were not irregular. Even in the present matter, it is not the case that the appointment of the petitioner to the post of “Supervisor” was made without following due procedure. Therefore, this petition deserves to be allowed and it is allowed accordingly.

4. The impugned order dated 9th April 2019 passed by respondent no.5- Education Inspector is hereby quashed and set aside. Respondent no.5 is directed to grant approval to the appointment of the petitioner to the post of

“Supervisor”, in terms of the Resolution dated 31st October 2018, within a period of two weeks from the date of receipt of writ of this court.

5. Rule is made absolute in the above terms. Petition is disposed of in the above terms.

[FIRDOSH P. POONIWALLA, J.]

[SUNIL B. SHUKRE, J.]