

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.746 OF 2023

1. President/Secretary
Sardar Vallabh Bhai Patel Smarak Shikshan
Samittee, Lonar, Tq. Lonar, Dist. Buldhana
 2. Head Master,
Sardar Vallabh Bhai Patel High School,
Lonar, Tq. Lonar, Dist. Buldhana
 3. Ravi S/o Digambar Ghuge,
Age 22 years, Occu. Peon,
R/o Raigaon, Tq. Lonar, Dist. Buldhana
- ... Petitioners

-vs-

1. The State of Maharashtra,
Through its Secretary,
Ministry of School Education,
Mantralaya, Mumbai-32
 2. Deputy Director of Education,
Amravati region, Amravati
 3. Education Officer (Secondary),
Zilla Parishad, Buldana
- ... Respondents

Shri S. M. Awachar, Advocate for petitioners.

Shri A. S. Fulzele, Additional Government Pleader for respondents.

CORAM : A. S. CHANDURKAR AND M. W. CHANDWANI, JJ.

DATE : April 24, 2023.

Oral Judgment : (Per : A. S. Chandurkar, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

The petitioner No.3 has been appointed on compassionate basis on 01/01/2022. Thereafter petitioner Nos.1 and 2 had made a proposal seeking

approval to the appointment of petitioner No.3 which came to be rejected on 03/03/2022 on the ground that there was a ban on recruitment. Being aggrieved, the petitioners have challenged the said rejection.

2. The learned counsel for the petitioners submits that in view of the Circular dated 14/09/2022 the State Government has clarified the matter by stating that appointment on compassionate basis does not result in filling a new sanctioned post and such appointment is made on an existing post. The request for approval to such appointment ought to be considered in this backdrop. It is therefore submitted that the Education Officer (Secondary) is not justified in rejecting the proposal in question.

3. The learned Additional Government Pleader for the respondents submits that the reason for rejection of the proposal has been mentioned in the impugned order. Reference therein has been made to Government Resolutions dated 23/10/2013, 28/01/2019 and 07/03/2019. Hence rejection of the proposal is for reasons stated.

4. On hearing the learned counsel for the parties, we find that the matter has been clarified by the Circular dated 14/09/2022 which indicates various relevant aspects that have to be taken into consideration while considering a request for grant of approval to an appointment made on compassionate basis. This includes the aspect that the appointment made on compassionate basis is not an appointment on a newly sanctioned post.

Since this Circular has been issued after passing of the impugned order, the interests of justice would be served by directing the respondent No.3 to reconsider the petitioners' proposal dated 24/01/2022 by taking into account the Circular dated 14/09/2022.

5. For aforesaid reasons, the order dated 03/03/2022 passed by respondent No.3- Education Officer (Secondary) Zilla Parishad, Buldana is set aside. He shall consider the petitioners proposal dated 24/01/2022 by taking into consideration Circular dated 14/09/2022. It is clarified that this Court has not examined the merits of the proposal and the decision shall be taken in accordance with law within a period of four weeks from receipt of copy of this judgment. To facilitate consideration of said proposal, the representative of the petitioners shall appear before the Education Officer (Secondary) on 02/05/2023.

Rule is made absolute in aforesaid terms with no order as to costs.

(M. W. Chandwani, J.)

(A. S. Chandurkar, J.)

Asmita

Digitally signed by ASMITA
ADWAIT BHANDAKKAR
Signing Date: 26.04.2023
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