



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

WRIT PETITION NO.2438 OF 2023

1. Gandhi Vidyalaya Shikshan Sanstha,
Kondha Tahsil Pauni, Dist. Bhandara
through its Secretary Shri Ramdas Jagannath Shahare
(Guruji), R/o Santaji Ward, Bhandara
2. Ku. Venu Bisan Deshmukh
(now Sau. Venu Mangalmurti Chopkar),
Aged about 28 years, Occupation Service,
R/o Shendri (Bj), Tah. Pauni, District Bhandara
3. Ku. Nivrutti Tekchand Gharpinde
(now Sau. Nivrutti Sachin Agade),
Aged about 29 years, Occupation Service,
R/o Krushna Nagar, Khat Road, Bhandara
4. Ku. Neha Vasant Rao Gabhane,
Aged about 24 years, Occupation Service,
R/o Junona, Tahsil Pauni, District Bhandara
5. Shri Shtrughna Mukunda Vaidya,
Aged about 37 years, Occupation Service,
R/o Mangali (Chouras), Tahsil Pauni, District Bhandara
6. Shri Sachin Ankush Deshmukh
Aged about 31 years, Occupation Service,
R/o Sarafa Line, Pauni, Tahsil Pauni, District Bhandara
7. Ku. Shital Ashok Gajbe
(now Sau Shital Kishor Gharat)
Aged about 25 years, Occupation Service,
R/o At Post Gurdah, Tahsil Lakhani, District Bhandara
8. Shri Akash Vinod Brahmanekar,
Aged about 27 years, Occupation Service,
R/o Bhai Talao Ward, Pauni, Tahsil Pauni,
District Bhandara
9. Ku Sarita Gangadhar Bodhane
(now Sau. Sarita Prashant Bandebuche)
Aged about 34 years, Occupation Service,
R/o C/o Bande, Rukmini Nagar, Khat Road, Bhandara
10. Ku. Gayatri Shiwadas Mundle
(now Gayatri Kishor Itankar)

Aged about 35 years, Occupation Service,
R/o Azad Chowk, Shukrawari Ward,
Pauni, Tahsil Pauni, District Bhandara

... Petitioners

-vs-

1. The State of Maharashtra,
Thr. Secretary, School Education and Sports Dept.
Mantralaya, Mumbai-400 032
2. The Commissioner Education,
State of Maharashtra, Pune
3. The Director of Education,
Secondary and Higher Secondary,
Maharashtra State, Pune
4. The Deputy Director of Education,
Nagpur Division, Nagpur
5. The Education Officer (Secondary),
Zilla Parishad, Bhandara

... Respondents

Shri B. G. Kulkarni, Advocate with Shri P. A. Jibhkate, Advocate for petitioners.
Shri A. A. Madiwale, Assistant Government Pleader for respondents.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.

DATE : September 04, 2023

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

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

The challenge raised in this writ petition is to the order dated 28/09/2022 passed by the Education Officer (Secondary), Zilla Parishad, Bhandara thereby rejecting the proposal seeking approval to the appointment of petitioner Nos.2 to 10 as Shikshan Sevak for the reasons indicated in the impugned order. Said reasons are that the appointment has not been made in a transparent manner through Pavitra Portal, there was a ban on recruitment in view of Government Resolutions dated 04/05/2020 and

05/05/2020 and further a copy of the revised roster was not placed on record.

2. It is submitted by the learned counsel for the petitioners that insofar as the Pavitra Portal is concerned, the same was not functioning since long and especially when the appointment of petitioner Nos.2 to 10 were made. The learned counsel invited attention to the order passed in Writ Petition No.8303/2022 (*Maharashtra Rajya Shikshan Sanstha vs. State of Maharashtra and ors. with connected writ petitions*) dated 17/07/2023 wherein statement of the learned Assistant Government Pleader has been recorded that Pavitra Portal would be made functional in the first week of August 2023. Insofar as the stand with regard to ban on recruitment is concerned, the same was operating during the pandemic. This ban has been relaxed on 07/08/2020. As regards copy of the roster point is concerned, it is submitted that the same would be produced before the Education Officer (Secondary) for consideration.

The learned Assistant Government Pleader Shri A. A. Madiwale supported the impugned order by relying upon the affidavit in reply.

3. Since the defects pointed out by the Education Officer (Secondary) appear to be curable, we find that the proposal moved by petitioner No.1 for grant of approval can be directed to be re-considered by the Education Officer (Secondary). The interests of justice would be served by passing the following order :

(i) The impugned order dated 28/09/2022 is set aside.

- (ii) The Education Officer (Secondary), Zilla Parishad, Bhandara is directed to re-consider the proposal dated 15/09/2022 moved by the petitioner No.1 for grant of approval to the appointment of petitioner Nos.2 to 10 in accordance with law. Same be done by giving opportunity to the petitioners.
- (iii) The representative of the petitioners shall appear before the Education Officer (Secondary), Zilla Parishad, Bhandara on 12/09/2023 with all necessary documents.
- (iv) The decision on the said proposal shall be taken within a period of four weeks from that date and the same shall be communicated to the petitioners.
- (v) In view of the decision in Writ Petition No.2187/2020 (*Rajesh s/o Padmakar Bhangale and anr. vs. The State of Maharashtra, Thr. its Secretary, Dept. of School Education, Mantralaya, Mumbai-32 and ors.*) dated 30/11/2022, the proposal shall not be rejected only on the ground that the appointment has been made without taking recourse to the Pavitra Portal as well as ban on recruitment during the said period.

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

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)