

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

WRIT PETITION NO.2284 of 2021

Laxmi Shikshan Mandal, through its President
and four others ...Petitioners

versus

State of Maharashtra through its Secretary,
Department of Education, Mantralaya, Mumbai
and two others. ..Respondents.

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Shri Anand Parchure, Advocate for petitioners.
Shri A.S.Fulzele, Additional Government Pleader for respondents.

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CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.
DATE :- 26thJULY, 2023

P. C.

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

2. The challenge raised in the present writ petition is to the communication dated 05.02.2021 by which approval to the appointments of the petitioner no.3 on the post of 'Junior Clerk' and the petitioner no. 4 on the post of 'Peon' came to be refused.

3. After hearing the learned counsel for the parties and after perusing the affidavit-in-reply filed by the respondents, it is seen that the Deputy Director of Education-respondent no.2 has found various deficiencies in the proposal dated 13.02.2020 that was submitted by the petitioner nos. 1 and 2. The deficiencies pertain to late submission of the proposal, absence of any mention of the amount of honourarium or pay-scale in the appointment order, absence of attestation on various documents and failure to indicate the date of interview of those candidates. On that basis by observing that

there was a ban on recruitment by virtue of the Government Resolution dated 04.05.2020 and the Government letter dated 05.05.2020 coupled with absence of staffing justification, the approval came to be rejected. It is also seen that by amending the writ petition, it is brought to the notice that the petitioner no.4 has resigned from the post of Peon and in his place another employee namely Umendra s/o Ramdas Sahare has been appointed as Peon after following due procedure. He has been added as the petitioner no.5.

4. Considering the nature of deficiencies as noted which the learned counsel for the petitioners submits have been removed, we are inclined to direct re-consideration of the proposal dated 13.02.2020 in the light of the fact that the ban on recruitment was pursuant to the Government Resolution dated 04.05.2020 while the appointments in question are stated to be made in the year 2017.

5. In these facts, the interests of justice would be served by directing re-consideration of the proposal dated 13.02.2020 on its own merits and to enable such re-consideration, the orders dated 05.02.2021 and 01.11.2021 passed by the Deputy Director of Education - respondent no.2 are set aside. The proposal dated 13.02.2020 be decided after giving due opportunity of hearing to the petitioners and a decision in that regard be taken within a period of six weeks of receiving copy of this order. The petitioner nos. 1 and 2 are free to move a fresh proposal for seeking approval to the appointment of petitioner no.5. Same shall also be decided accordingly.

Keeping all the points raised open, the writ petition is disposed of. Rule accordingly. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)