



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

WRIT PETITION NO.2998/2021

Nitin S/o Keshav Lende,
aged about 34 Yrs., Occ. Service,
R/o Thana Petrol Pump, Bhandara,
Tah. & Dist. Bhandara.

... Petitioner

- Versus -

1. The State of Maharashtra,
through its Secretary,
Department of School Education
& Sports, Mantralaya, Mumbai.
2. The Deputy Director of Education,
Nagpur Region, Balbharti Godown,
Nagpur.
3. The Education Officer (Secondary),
Zilla Parishad, Bhandara.
4. The Head Master,
Devi Saraswati Vidyalaya, Shingori,
Tah. & Dist. Bhandara.

... Respondents

Mr. J. R. Kidilay, Counsel for the Petitioner.
Ms. S.S. Jachak, Assistant Government Pleader for Respondent
Nos.1 to 3.
Mr. S.P. Pawar, Counsel for Respondent No.4.

CORAM: A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 27.9.2023

ORAL JUDGMENT (Per A.S. Chandurkar, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. The petitioner claims to have been appointed on the post of Laboratory Attendant at the respondent No.4 School pursuant to the permission granted by the Education Officer (Secondary) on 13.3.2009 on the basis of which advertisement dated 14.10.2009 came to be issued. According to the petitioner, the proposal seeking approval to his appointment along with various other employees was initially sent on 19.10.2011 which was followed by various reminders. The Education Officer (Secondary) on 14.3.2012 granted approval to the appointment of other employees but did not consider the request insofar as the petitioner is concerned. Pursuant to the reminder issued on

26.3.2021 the Education Officer (Secondary) has passed the order dated 29.6.2021 refusing to grant approval principally on the ground that the Class IV post of Laboratory Attendant had not been sanctioned at the respondent No.4 School.

3. After hearing the learned counsel for the parties and after perusing the documents on record we find that for the academic session 2008-2009 as well as 2009-2010 one post of Laboratory Attendant is shown to be sanctioned in the Staff Justification. The appointment of the petitioner is pursuant to the advertisement dated 14.10.2009 which would thus indicate *prima facie* that at that point of time one post of Laboratory Attendant was sanctioned. Insofar as other two reasons assigned in the impugned order are concerned they pertain to the policy prevailing on account of Covid Pandemic. That policy is now no longer in operation. In these facts, we find that the interest of justice would be served by directing the Education Officer (Secondary) to reconsider the proposal that was initially moved by

the Management seeking approval to the appointment of the petitioner. The said proposal is dated 19.10.2011. To enable reconsideration of the said proposal the order dated 29.6.2021 is set aside. The petitioner as well as the Headmaster of respondent No.4 should appear with all record before the Education Officer (Secondary) on 9.10.2023. Within a period of four weeks from that date, the said proposal shall be decided and the decision shall be communicated to the parties. Proposal be decided on its own merits in accordance with law. Rule is made absolute in the above terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)