

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

WRIT PETITION NO. 4199 OF 2022

Shri Abhishek Ashok Ghuse
Age about 22 years Occu : Service
R/o. Shyam Nagar, Amravati,
Tq. & Dist. Amravati.

.....**Petitioner**

...Versus...

- (1) State of Maharashtra through its
Principal Secretary, Administration
Department, Mantralaya,
Mumbai-32.
- (2) Hon'ble Collector, Amravati
Tq. & Dist. Amravati
- (3) President/Secretary,
Shankarlalaji Rathi Education
Committee, Walgaon,
Tq. & Dist. Amravati.
- (4) Headmaster, S.L. Highschool,
Walgaon, Tq. & Dist. Amravati.
- (5) Education Officer (Middle),
Near Bhatkuli Panchayat Samittee,
Zilla Parishad, Amravati,
Tq. & Dist. Amravati.
- (6) Nilesh Goviondrao Bodake,
Age 28 yrs, Occu : Service
R/o. S. L. High School, Amravati
Tq. & Dist. Amravati.

.....**Respondents**

Mr. S. S. Patil, Advocate for the petitioner
Mr. S. M. Ukey, Addl. G. P. for respondents 1, 2 and 5
Mr. Anand Parchure, Advocate for respondents 3, 4 and 6

CORAM : ROHIT B. DEO AND M. W. CHANDWANI, JJ.

DATE : 15-06-2023

ORAL JUDGMENT : (PER ROHIT B. DEO, J.)

Heard.

2. Rule. Rule made returnable forthwith. With consent, heard finally.

3. The father of the petitioner Mr. Ashok Ghuse was working as Peon/Chowkidar on the establishment of respondent 4 - school. He died in harness due to heart attack on 30-8-2013.

4. Petitioner's mother submitted several applications in the year 2014 seeking appointment on compassionate grounds. She was, however, not appointed. At the relevant time, the petitioner was minor. In due course, after the petitioner attained majority, his mother submitted application dated 28-11-2018 and 12-1-2019 seeking compassionate appointment for the petitioner. Respondent 5 directed the management to appoint the petitioner on compassionate grounds vide letter dated 31-8-2021. The petitioner was as a fact issued appointment order dated 1-11-2021. However, the management then took a stand that

there is no vacancy for the post of Peon and the post is not approved.

5. The petitioner contends that the management appointed respondent 6 as a Clerk. According to the petitioner, since he is duly qualified to hold the post of Clerk, he ought to have been considered for appointment as Clerk. The petitioner addressed several representations to respondent 5, but in vain. It is, on these broad facts, that the petitioner is seeking appointment on compassionate grounds as Clerk.

6. The management has filed affidavit in response and we may extract paragraph 4 thereof.

“4. Be that as it may, the respondent-management being the minority institution has privilege of appointing employees from the notified posts. The respondent no. 6 was appointed after following the due procedure of law on the post of Clerk being otherwise eligible. Being A notified post the petitioner, as of right, is claiming to be appointed as a Clerk only, although the respondent-management is willing to accommodate him on any Class IV post namely that of a Peon, The petitioner is refusing to accept any such appointment.”

7. The petitioner has filed affidavit dated 12-6-2023 expressing willingness to accept the appointment as Peon. In this

view of the matter, we direct the management to issue appointment order to the petitioner as Peon and to further submit an appropriate proposal to the Education Officer seeking approval to the appointment. We expect the management to do the needful within the next two weeks.

8. The petition is disposed of in the aforestated terms.

(M. W. Chandwani, J.)

(Rohit B. Deo, J.)

wasnik