

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

WRIT PETITION NO. 4671 OF 2018

Jagdish s/o. Ramdas Nagre
Aged about 36 years, Occ. Service,
R/o. C/o. Pradeep M. Mahalle,
Ganesh Nagar Road, Tukdoji Ward,
In front of Kalode Mangal
Karyalaya, Hinganghat,
Dist. Wardha.

Petitioner

-Vs.-

1. The State of Maharashtra,
Through its Secretary, Education
and Sports Department,
Mantralaya, Mumbai - 32
2. The Commissioner,
Education Department,
Pune.
3. The Deputy Director of Education,
Nagpur Division, Nagpur.
4. The Education Officer (Secondary),
Zilla Parishad, Wardha.
5. Gram Gaurav Shikshan Sanstha,
Through its Secretary, Hinganghat,
Dist. Wardha.
6. Saraswati Vidyalaya,
Paikmari, Taluka Samudrapur,
Dist. Wardha, Through its **Respondents**
Headmaster.

Mr.A.D.Mohgaonkar, counsel for petitioner.
Mrs.K.S.Joshi, Addl.G.P for respondent Nos.1 to 4

**CORAM:ROHIT B. DEO AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATE : 18th APRIL, 2023

O R A L J U D G M E N T (Per : Rohit B. Deo, J.)
Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The challenge is to the order dated 22.05.2018 rendered by the Deputy Director of Education, Nagpur Division, Nagpur, whereby the approval dated 11.08.2016 which was accorded by the Education Officer to the appointment of the petitioner as Assistant Teacher, is cancelled.

4. The relevant facts are that the petitioner, who holds the B.A.,B.Ed qualification responded to the advertisement dated 21.04.2012 issued by the respondent 5 institution for the post of Assistant Teacher reserved for NT category.

5. It is not in dispute that the advertisement was issued by respondent 5 after obtaining the permission of the Education Officer (Secondary) Zilla Parishad, Wardha. The permission specifically referred to the need to clear the backlog in Scheduled Tribe and Nomadic Tribe Category. The petitioner belongs to the Wanjari caste which is NT.

6. The petitioner was appointed on 30.04.2012 as Shikshan Sevak and on 13.02.2013, the appointment as Shikshan Sevak was approved by the Education Officer. The petitioner submits that although the approval ought to have been granted from the date of the appointment, for reasons inexplicable the approval is given effect from 13.02.2013 and the Management is asked to pay the salary for the earlier period.

7. The petitioner completed three years probationary period as Shikshan Sevak on 29.04.2015. The Management submitted the proposal to the Education officer for

permanent/final approval. The Education Officer approved the appointment of the petitioner as permanent Assistant Teacher with effect from 13.02.2016. The petitioner submitted representation dated 24.03.2017 requesting the Education Officer to correct the date of appointment or effect of approval mentioned in the approval order.

8. The petitioner submits that out of the blue he received communication dated 14.07.2018 from the respondent 6 School along with which was enclosed the order impugned dated 22.05.2018 rendered by the Deputy Director of Education cancelling the approval granted by the Education Officer.

9. The petitioner contends that the order of cancellation is arbitrary inasmuch as the petitioner was appointed by following due process of law and against post which was reserved. It is emphasized that it was only after the Education Officer granted permission that the

advertisement was issued in strict compliance with the permission.

10. We have perused the order impugned. The Deputy Director of Education has found that the permission to appoint is obtained prior to the enforcement of the ban on recruitment. It is further found that the post is filled in to clear the backlog. Having so observed, the Deputy Director of Education proceeds to conclude that since the permission was obtained to fill in the post in the academic year 2011-12, and the order of appointment was issued on 13.02.2013, the appointment is illegal.

11. We have no hesitation in concluding that the reasons recorded by the Deputy Director of Education for cancelling the approval are not only erroneous, are clearly perverse. The authority clearly failed to notice that the petitioner was not appointed on 13.02.2013. The said date refers to the date

from which the Education Officer made the approval effective.

12. We quash the order impugned and restore the order of approval of the Education Officer.

13. Rule is made absolute in the above terms. No order as to costs.

(MRS.VRUSHALI V. JOSHI, J)

(ROHIT B. DEO)