



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

Writ Petition No.7257 of 2023

Manohar S/o Maroti Athawale

Versus

State of Maharashtra and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.

Court's or Judge's order

Shri S.B. Gandhe, Counsel for Petitioner.

Shri A.S. Fulzele, Additional Government Pleader for Respondent Nos.1 and 2.

CORAM : A. S. CHANDURKAR AND ABHAY J. MANTRI, JJ.

DATE : 27th OCTOBER, 2023.

1. **Rule.** Considering the nature of the order proposed to be passed, service on behalf of the respondent Nos.3 and 4 is dispensed with. Shri A.S. Fulzele, learned Additional Government Pleader, waives notice of hearing for the respondent Nos.1 and 2.

2. Heard the learned counsel for the parties.

3. The petitioner came to be appointed on the post of Assistant Teacher pursuant to the advertisement dated 6-2-2023. The initial appointment was on the post of Shikshan Sevak. On 7-8-2023, the proposal seeking approval to the appointment of the petitioner was forwarded to the Education Officer (Secondary). By the order dated 8-9-2023, the said proposal has been rejected by referring to the Government Resolution dated 7-2-2-19 and the Corrigendum dated 25-2-2019 to the said Government Resolution on the ground that while obtaining his graduation, the petitioner did not seek 50% or more marks. Being aggrieved, the petitioner has challenged the said order dated 8-9-2023 in this writ petition.

4. Shri S.B. Gandhe, learned counsel for the petitioner, by referring to the decision in Writ Petition No.4079 of 2019 (*Sachin Panjabrao Surwade and others Versus State of Maharashtra and another*) dated 28-8-2019, submits that

the criteria of possessing 50% marks at the graduate or post-graduate level has been struck down insofar as the recruitment of teachers in private schools is concerned. It is thus clear that while considering the proposal dated 7-8-2023, the Education Officer (Secondary) ought to have taken into consideration the aforesaid decision. Having failed to do so, the impugned order is found to be unsustainable.

5. Accordingly, the following order is passed :

(i) The order dated 8-9-2023 passed by the respondent No.2- Education Officer (Secondary), Zilla Parishad, Bhandara is set aside.

(ii) It is directed that the proposal dated 7-8-2023 shall be re-considered afresh after taking into consideration the law laid down by this Court in *Sachin Panjabrao Surwade and others* (supra). Necessary decision be taken within a period of four weeks of receiving the copy of this order. The decision taken be communicated to the petitioner as well as the respondent Nos.3 and 4.

6. Rule is disposed of accordingly with no order as to costs.

(ABHAY J. MANTRI, J.)

(A. S. CHANDURKAR, J.)