



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 363 OF 2024

**VARSHA GANGADHAR PAWAR
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS**

...

Advocate for Petitioner : Mr. Panpatte V. S.

Addl.GP for Respondents/State : Mr. P.S. Patil

Advocate for Respondent No. 4 : Mr. Bramhankar Rakesh C.

...

**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 11th NOVEMBER 2024

ORDER (Per Shailesh P. Brahme, J.) :

. Heard both the sides finally.

2. The petitioner is assailing order dated 21.11.2023 passed by the respondent no.3/Deputy Director of Education, Nashik Division, Nashik, refusing to grant approval to his appointment.

3. The petitioner was appointed by the respondent no.4/Institution in the respondent no.5/School by letter dated 05.08.2019. The proposal was submitted to the respondent no.3/Deputy Director of Education with the covering letter dated 06.03.2021 alongwith enlisted documents. The respondent no.3/Deputy Director of Education rejected the proposal for the various reasons.

4. Learned Counsel for the petitioner submits that the rejection of the proposal is wholly unsustainable. He would submit that the proposal which was submitted by the Management was complete in all respect. He would point out the documents which were forwarded by the Management to the respondent no.3/Deputy Director of Education alongwith the proposal. It is further submitted that Aadhar Card and Caste Validity Certificate are not the essential documents. The approved roster was also forwarded alongwith the proposal.

5. Learned Counsel for the petitioner adverts our attention to the judgments rendered in the following matters of (i) **Lalit s/o Sureshrao Shinde Vs. State of Maharashtra and Others**, in Writ Petition No.14420/2021; (ii) **Pranitkumar s/o Balajirao Ankade Vs. State of Maharashtra and Others**, in Writ Petition No.10155/2021; (iii) **Gajanan s/o Baburao Holge Vs. State of Maharashtra and Others**, in Writ Petition No.9696/2021; (iv) **Pandharinath s/o Shivajirao Jogdand Vs. State of Maharashtra and Others**, in Writ Petition No.9688/2022. He would submit that the rejection of the proposal for the reason that appointment was not made in accordance with the procedure laid down by pavitra portal is perverse. In that view of the matter, it is submitted that, this petition deserves to be allowed.

6. Learned AGP supports impugned order. He would submit that the objective scrutiny has been made by the respondent no.3/Deputy Director of Education in rejecting the proposal. He

would further submit that no case is made out to call for interference in the impugned order.

7. After appointment of the petitioner, respondent no.5 forwarded the proposal alongwith covering letter dated 06.03.2021. The covering letter shows that number of documents were forwarded alongwith the proposal. The resolution passed by the Management and the certificates indicating that there were no dispute in the Management, are also included in those documents. The respondent no.3/Deputy Director of Education has not applied mind so far as these two documents are concerned. It also reveals that the Caste Validity Certificate and Aadhar Card are not essential documents which are required to be forwarded alongwith the proposal seeking approval for the appointment of an employee.

8. The petitioner has pointed out that the roster which was approved by the competent authority/Assistant Commissioner, Nashik Division, Nashik was part of the proposal. The approved roster indicates that three sanctioned posts of open category were vacant. Learned Counsel for the petitioner is justified in contending that his appointment is made after following due procedure of law against sanctioned vacant post for unreserved category. He was appointed against the vacancy created due to the superannuation of Dilip Patil.

9. We have taken consistent view in number of matters

following ratio in the matter of **Shaikh Jaweriya Khadarsab Vs. State of Maharashtra and Others**, in Writ Petition No.13150/2022 and in the matter of Lalit s/o Sureshrao Shinde (supra) that the proposal cannot be rejected solely on the ground that the procedure contemplated by Government Resolution 23.06.2017 has not been followed. Learned Counsel for the petitioner is justified in contending that the reason assigned in the impugned order in that regard is perverse.

10. We are of the considered view that the reasons assigned by respondent no.3/Deputy Director of Education are unsustainable. The matter needs to be relegated to the Deputy Director of Education to reconsider the proposal afresh on its own merits.

11. We therefore deem it fit to allow writ petition partly. The respondent no.3/ Deputy Director of Education, Nashik Division, Nashik shall re-consider the proposal on its own merits but shall not reject the same on the selfsame ground mentioned in the impugned communication.

12. The decision shall be taken within a period of four weeks from today and the same shall be communicated to the petitioner and the respondents/Management.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

Najeeb..