



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

WRIT PETITION NO. 3171 OF 2022

SANTOSH RAMESHRAO MANSURE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for the Petitioner : Mr. V. S. Panpatte
AGP for Respondents No.1 to 4 : Mr. A. S. Shinde
Advocate for Respondents No.5 and 6 : Mr. B. P. Gonare
...

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

DATE : 12-11-2024

PER COURT:-

1. Heard the learned counsel for the petitioner, the learned A.G.P. for respondents No.1 to 4 and the learned counsel for the respondents No.5 and 6.

2. The petitioner is challenging order dated 28.01.2022 passed by respondent No.3 - Education Officer (Secondary), Zilla Parishad, Latur, rejecting the proposal seeking approval to the appointment of the petitioner.

3. Two reasons are assigned by respondent No. 3 - Education Officer for rejecting the proposal, one for not following procedure as contemplated by the Government Resolution dated 23.06.2017 and another is that there was ban on fresh recruitment as per the Government Resolution dated 04.05.2020.

4. The learned counsel for the petitioner submits that the petitioner was appointed after following due procedure of law on a post reserved for OBC category. The petitioner was appointed for subject 'Science', as he was possessing qualification of B.Sc. B.Ed. He tenders on record a copy of the Government Resolution, dated 04.05.2020.

5. The learned counsel for the petitioner submits that in view of the law laid down in the matter ***Shaikh Jaweria Khadarsab vs. The State of Maharashtra Through Its Secretary and others, Writ Petition No.13150 of 2022***, it is not permissible for the Education Officer, to turn down the proposal only on the ground that Government Resolution dated 23.06.2017 was not followed. It is further contended that the proposal cannot be rejected for the reason of ban imposed by the Government Resolution dated 04.05.2020. For that purpose, reliance is placed on the judgment in the matter of ***Gramvikas Shikshan Mandal vs. The State of Maharashtra and others, Writ Petition (St) No.4493 of 2022, dated 26.04.2023***.

6. The learned A.G.P. supports the impugned order. It is submitted that as there was ban and the appointment of the petitioner was against the policy laid down by the State Government, the proposal was rightly rejected.

7. We have taken a consistent view that the Education Officer should conduct objective scrutiny of the proposal and proposal should not be rejected only on the ground that there was non compliance of Government Resolution dated 23.06.2017. In this respect, a reference can be made to the decision in the case of ***Shaikh Jaweria Khadarsab*** (*supra*). No objective scrutiny was made by the Education Officer.

8. The Education Officer has turned down the proposal as there was ban on the fresh recruitment imposed by Government Resolution dated 04.05.2020. However, in the decision of ***Gramvikas Shikshan Mandal*** (*supra*), it has been clarified that ban was imposed due to financial repercussions. This aspect can be taken into account by the Education Officer while considering the proposal for approval. It is up to the Education Officer, to take a decision as to from which date the appointment is to be approved and the financial repercussions.

9. In that view of the matter, we find that the impugned order is unsustainable. The respondent No.3 – Education Officer has to re-examine the proposal. Hence, the order:-

ORDER

- i) Writ Petition is partly allowed.

- ii) The impugned order passed by respondent No.3 - the Education Officer (Secondary), Zilla Parishad, Latur, is quashed and set aside.
- iii) Respondent No.3 - Education Officer (Secondary) shall reconsider the proposal on its own merits in view of relevant Government Resolution, and the judgments.
- iv) The decision shall be taken within four weeks from today.
- v) However, respondent No.3 - Education Officer (Secondary) shall not reject the proposal on selfsame ground which is mentioned in the impugned communication.

[SHAILESH P. BRAHME]
JUDGE

[S. G. MEHARE]
JUDGE

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