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

WRIT PETITION NO. 3630 OF 2019

**NANDKUMAR S/O. RANGNATH REDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.**

...

Mr. T.M. Venjane, Advocate for petitioner
Mr. S.K. Shirse, Advocate for respondent Nos.1 to 3
Mr. A.M. Reddy, Advocate for respondent No.4 (through V.C.).

**CORAM : SMT. VIBHA KANKANWADI
& S.G. CHAPALGAONKAR, JJ.**

DATE : 8TH APRIL, 2024

ORDER : (PER S.G. CHAPALGAONKAR, J.)

1. The petitioner has approached this Court impugning the order dated 3.12.2016 passed by the respondent No.2, Deputy Director of Education, Aurangabad, thereby cancelling the approval granted by the Education Officer to his appointment on the post of Librarian.

2. Mr. T.M. Venjane, learned advocate appearing for the petitioner submits that petitioner responded to the advertisement dated 23.2.2012 issued by the respondent No.4. Consequently, he was interviewed and selected as Librarian vide order dated 5.3.2012. The petitioner immediately joined duty on said post. Respondent NO.4 forwarded proposal seeking approval to the petitioner's appointment. Respondent No.3, after examining the documents, granted approval vide order dated 12.11.2012. On completion of the probation period, respondent No.3 granted permanent approval vide order dated

10.3.2015. All of a sudden, respondent No.2 issued a notice of hearing to the petitioner and directed him to remain present on 2.11.2018 and finally, passed impugned order cancelling the approval granted in favour of the petitioner for the reason that during the academic year 2011-12, post of librarian was not admissible for want of requisite strength of 1000 students in the school. Further original record regarding approval granted to the petitioner is not available with the office of respondent No.3.

3. According to Mr. Venjane, learned counsel for the petitioner, the abrupt cancellation of approval granted to petitioner's appointment is illegal and contrary to well established procedure. He would further submit that the appointment of the petitioner was against a clear vacancy caused on retirement of Smt. Rodge. The petitioner was not given sufficient opportunity to put up his stand before passing the impugned order.

4. Mr. S.K. Shirse, learned AGP for respondent Nos. 1 to 3 relying upon the affidavit in reply dated 21.8.2019 filed on behalf of respondent No.2 submits that the impugned order is passed after giving sufficient opportunity of hearing to the petitioner. He would point out that on the date of petitioner's appointment, the post of Librarian was not admissible at the school, since the strength of the students was only 677 only, which was further reduced to 635 in next academic year.

5. We have considered the submissions advanced by learned advocate appearing on behalf of respective parties. Ww have perused the record tendered into service alongwith writ petition and reply affidavit.

It is not in dispute that the petitioner was appointed as a Librarian vide order dated 5.3.2012 and his services were approved by the Education Officer vide order dated 12.11.2012. The staffing pattern also indicates that one post of Full Time Librarian was shown for the academic year 2011-12 and 2012-13. However, the impugned order is passed cancelling the approval granted to petitioners appointment, giving the reason that the post was not admissible on account of requisite strength of students.

6. The Government Resolution dated 25.11.2005 issued by the State of Maharashtra, in its School Education and Sports Department provides for staffing pattern in respect of schools and junior colleges. The post of Librarian is made admissible under the staffing pattern on fulfillment of specified condition. If strength of students is between 101 to 1000, post of part-time Librarian is admissible. In case of strength of students goes beyond 1001, one post of Full Time Librarian becomes admissible. Perusal of the staffing pattern of the Saraswati Vidyalaya, Parli Vaijnath i.e. school of the petitioner depicts that for the academic year 2011-12 the total strength of students was 677, whereas, for academic year 2012-13 it was reduced to 635. Apparently, at the time of petitioner's appointment, at the most, post of part time Librarian could have been admissible. It is, therefore, evident that the approval to the petitioner's appointment as a Full Time Librarian was contrary to the staffing pattern prescribed under Government Resolution dated 25.11.2005.

7. In this background, the conclusion drawn by respondent No.2 cannot be faulted. Apparently, before passing the impugned order,

the respondent No.2 granted opportunity of hearing to all concerned, including the petitioner. The impugned order notes that the original file granting approval to petitioner's appointment is not available with the office of the Education Officer. There is serious doubt as regards to correctness of approval granted in favour of the petitioner, particularly in absence of requisite strength of the students.

8. In that view of the matter, we do not find any reason to interfere in the impugned order in exercise of our jurisdiction under Article 226 of constitution of India. At this stage, Mr. Venjane learned Advocate for petitioner submits that petitioners case could have been considered for approval as part time librarian that would be admissible looking to the strength of students at relevant time. In our opinion such contentions cannot be considered by this court in absence petitioners appointment as part time librarian by the school. However, we make it clear that it would be open for the petitioner to pursue the respondent No.4 to issue appropriate appointment order as per the strength of the students and seek approval to such appointment as per the staffing pattern and relevant regulations.

Writ petition stands dismissed with liberty indicated above.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-