



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
REVIEW PETITION NO.218 OF 2024
IN
WRIT PETITION NO.8249 OF 2022**

1. Shaikh Mohammad Mohsin Shaikh Saleem,
Age 35 years, Occ: Service,
R/o. Flat No.2, Safa Apartment,
Near Al-Kareem Masjid,
National Colony, Aurangabad.
 2. Huzefa Najnuddin Tinwala,
Age 41 years, Occ: Service,
R/o. H. No.3-3-20, Behind Burhani
National High School, City Chowk
Aurangabad
- ..Petitioners

Versus

1. The State of Maharashtra,
Through its Secretary,
Higher & Technical Education,
Mantralaya, Mumbai.
 2. The Director,
Directorate of Technical
Education, 3, Mahapalika Marg,
CST area, Fort, Mumbai-400001.
 3. The Joint Director of Technical
Education, Aurangabad Region,
Aurangabad.
 4. The President,
Maulana Azad Education Society,
Dr. Rafique Zakariya Campus,
Rauza Baugh Aurangabad.
 5. The Principal,
Kamla Nehru Polytechnic (Pharmacy)
College,
Dr. Rafique Zakariya Campus,
Rauza Baugh, Aurangabad.
- ..Respondents

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Mr. A. N. Kakade, Advocate for the Petitioners.

Mr. A. M. Phule, AGP for Respondent-State.

Mr. P. S. Dighe, Advocate for Respondent Nos.4 and 5.

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

DATED : 26th SEPTEMBER, 2024.

ORDER (Per: S. G. Chapalgaonkar, J.)

1. The petitioners are seeking review of the order dated 01.04.2024 passed in Writ Petition No.8249/2022 by which writ petition was disposed of being sans of merits.

2. The review petitioners are original writ petitioners. They had approached this Court for issuance of Writ of Mandamus impugning letter dated 08.07.2022 and 29.09.2021 issued by respondent no.3-Joint Director of Technical Education and consequential reliefs against respondent nos.4 and 5 i.e. private Educational Institution to submit appointment proposals of the petitioners with respondent no.3-Joint Director for his consideration.

3. The petitioners were aspirant of appointments on the post of Store Keeper and Laboratory Attendant on establishment of respondent no.4. They participated in selection process initiated vide advertisement dated 30.09.2019. They had undergone written test. Meanwhile, on account of pandemic situation, selection process was halted in midway. After normalization of situation, Institution represented respondent no.3 to grant permission to complete the selection process. However, respondent no.3 refused to grant permission, firstly, for the reason that in view of the Government Resolution dated 11.02.2016 unless staffing pattern is sanctioned by the Government, the permission for recruitment cannot be granted. Secondly, period of more than one year is lapsed from initiation of selection process, therefore, select list, if any, became inoperative.

4. This Court while considering the contents of writ petition and documents tendered noted that the petition is filed by the candidates, who had participated in selection process initiated by private minority institution. Writ of Mandamus cannot be issued directing such institute to carry forward selection process. The selected candidates have no right to seek letter of appointments. In that view of the matter, when management has not challenged communication issued by respondent no.3-Joint Director of Technical Education, the writ petition was dismissed.

5. Mr. Kakade, learned Advocate for the petitioners submits that communications issued by Joint Director were impugned in writ petition, therefore, writ petition could have been entertained. He would further submit that no direct prayer seeking Writ of Mandamus to appoint the petitioners was incorporated in the writ petition, but directions were sought against management to submit proposals for petitioners' appointment to respondent no.3 and further directions were prayed against respondent no.3 to consider such proposals on its own merits. Therefore, rejection of writ petition was on erroneous count.

6. At this stage it is apposite to refer to the observations of the Supreme Court of India on scope of review in case of **S. Murali Sundaram Vs. Jothibai Kannan**¹, which reads thus:

“In the case of Shanti Conductors (P) Ltd. (AIR ONLINE 2019 SC 1931), it is observed and held that scope of review under Order 47 Rule 1 CPC read with Section 114 CPC is limited and under the guise of review, the petitioner cannot be permitted to reagitate and reargue questions which have already been addressed and decided. It is further observed that an error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review under Order 47 Rule 1 CPC.”

¹ AIR 2023 SC (CIVIL) 1529.

7. Apparently, this Court refused to entertain writ petition at the behest of the petitioners, who were prospective selected candidates in pursuance to the recruitment process initiated by private minority institution. The impugned communication dated 08.07.2022 and 29.09.2021 issued by respondent no.3-Joint Director of Technical Education was addressed to the Principal of College. The management had not impugned aforesaid communication before this Court. Even, the management has not supported the claims of the petitioners, although they were noticed by this petition. Therefore, this Court noted that petitioners have no locus to challenge impugned communications without support of management and they do not have independent right to pray for Writ of Mandamus in subject matter. Therefore, we do not find any ground on which Review Petition can be entertained. Hence, Review Petition stands rejected.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE