



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

WRIT PETITION NO. 6355 OF 2023

Mukesh S/o Suresh Jaiswal,
Age: 30 years, Occ. Service as a Peon,
Aadhar Card No. 690703190458.
R/o at post Chikhli Tq. Badnapur,
Dist. Jalna.

... Petitioner

VERSUS

1. The State of Maharashtra,
Through its Secretary,
School & Education Department,
Mantralaya, Mumbai-32.
2. The Deputy Director of Education,
Aurangabad Division, Aurangabad
3. The Education Officer (Secondary),
Zilla Parishad, Jalna,
4. Janata Education Society at Chikhli
Tq. Badnapur, Dist. Jalna.
Through its secretary.
5. Janata High School,
Chikhli, Tq. Badnapur, Dist. Jalna,
Through its Head Master.

... Respondents

...
Advocate for the Petitioner : Mr. Panpatte V. S.
AGP for Respondent/s-State : Mr. P. S. Patil.
Advocate for respective Respondents : Ms. Sarin Karishma
Sanjay.

...

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

DATE : 19.12.2024

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard finally with the consent of parties.
2. The petitioner was appointed on Class IV post in open category on 12.03.2012. His approval was placed before respondent No.3/Education Officer. However, respondent No.3 rejected his proposal vide order dated 28.06.2019 on the ground that in view of the Government Resolution dated 12.02.2015, the appointments of the staff have been stopped by the Government.
3. Learned counsel for the petitioner submits that the Government Resolution dated 12.02.2015 does not apply to the petitioner, since he was appointed before that date. Respondent No.3 has no reason to reject the proposal on the same ground. He would submit that the identical issue has been dealt with by this Court in Writ Petition No.5241 of 2021 decided on 11.03.2022. This Court held that since the appointment was before the date of resolution dated 12.02.2015, the directions of the Government as per this

resolution would not apply.

4. The learned AGP would submit that since the petition has been preferred belatedly, the Education Officer did not have an opportunity to examine any other grounds examined or scrutiny the proposal in detail. Hence, the matter be remitted to the Education Officer (Secondary) for re-consideration and appropriate decision.

5. We have examined the impugned order. The proposal has been rejected on the sole ground that in view of resolution dated 12.02.2015, the appointments are not allowed. Admittedly, the appointment of the petitioner was before the said Government Resolution. In the circumstances, the question is whether the approval could be rejected in pursuance to the resolution dated 12.02.2015. This Court in writ petition mentioned above has specifically observed that the reasons rejecting the approval of application of the Government Resolution dated 12.02.2015 cannot be applied retrospectively. Since the petitioner was appointed before 12.02.2015, the impugned order does not survive. Considering the facts of the case and the view taken by the Co-ordinate

Bench, we think it fit to allow the writ petition by following order.

ORDER

- (i) Writ petition is allowed in terms of prayer clauses “A” and “B”.
- (ii) Respondent No.3 shall grant approval to the appointment of the petitioner to the post of Peon (Class IV) from the date of appointment within three weeks from today and also grant all consequential benefits including insertion of his name in Shalarth Pranali within three weeks from the date of granting approval.
- (iii) Respondent No.3 shall release the arrears of salary of the petitioner within three weeks after entering his name in Shalarth Pranali.
- (iv) Rule made absolute.

(SHAILESH P. BRAHME, J.)

(S. G. MEHARE, J.)

...

vmk/-