



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

WRIT PETITION NO.9132 OF 2018

Ambadas Vishnu Kachare ... **PETITIONER**

VERSUS

1. The State of Maharashtra,
through Principal Secretary,
School Education Department,
Mantralaya, Mumbai – 32.
2. The Education Officer, (Secondary)
Zilla Parishad, Ahmednagar
3. Gramseva Mandal, Kukana
through its Secretary,
Kukana, Tq. Newasa, Dist. Ahmednagar
4. The Principal,
Patharwala Madhyamik Vidyalaya,
Patharwale, Tq. Newasa,
Dist. Ahmednagar

... **RESPONDENTS**

WITH

WRIT PETITION NO.9183 OF 2018

Narendra Raosaheb Khatik ... **PETITIONER**

VERSUS

1. The State of Maharashtra,
through Principal Secretary,
School Education Department,
Mantralaya, Mumbai – 32.
2. The Education Officer, (Secondary)
Zilla Parishad, Ahmednagar
3. Gramseva Mandal, Kukana
through its Secretary,
Kukana, Tq. Newasa, Dist. Ahmednagar
4. The Principal,
Patharwala Madhyamik Vidyalaya,
Patharwale, Tq. Newasa,
Dist. Ahmednagar

... **RESPONDENTS**

...

Advocate for the Petitioner/s : Mr. S.P. Salgar h/f. Mr. Gaware Niteen V.

AGP for Respondents/State : Mr. S.P. Joshi

Advocate for Respondent Nos.3 and 4 : Mr. Rajendra K. Temkar

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CORAM : **MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**
DATE : **24.06.2024**

PER COURT:

Heard both the sides and perused the record. Rule. Rule is made returnable forthwith.

2. By impugned communications the respondent - Education Officer (Secondary) has refused to grant approval to the petitioners' appointment to the post of Naik and Laboratory Assistant respectively on three counts :

- i. Government Resolution dated 06.02.2012 was not followed.
- ii. By Government Resolution dated 02.05.2012 there was a ban on the recruitment and staffing pattern was not approved.
- iii. By the circular of the Finance Department dated 08.08.2017 no approvals can be granted.

When apparently the petitioners' appointments are of the year 2002, and the matter has been pending with the Education Officer since the year 2008 for grant of approval, no decision was being taken by him on this proposal, albeit, it was a joint proposal and approvals were granted to few others, this Court had to direct in Writ Petition No.8679/2016 and connected matters by the order dated 24.10.2016 calling upon the Education Officer to decide the proposals. In the light of that a decision seems to have been taken for the aforementioned reasons.

3. We fail to understand as to how the subsequent decisions/Government Resolutions could affect the petitioners'

appointments which were prior to these Government Resolutions and circulars. There cannot be any retrospective operation. The Education Officer should have considered the Government Resolutions and the Rules including staffing pattern as was approved when the petitioners were initially appointed. The impugned order is clearly passed without application of mind.

4. It is also being pointed out that initially some queries were raised by the Education Officer which were attempted to be responded by the Management by its communication dated 21.12.2021 and still, the impugned order does not refer to any of such compliances which were in fact solicited by his office.

5. Be that as it may, the impugned order is grossly erroneous and unsustainable in law. The writ petitions are partly allowed. The impugned orders are quashed and set aside. The respondent – Education Officer (Secondary) shall reconsider the aspect of grant of approval to the petitioners' appointment in the light of law prevailing at the relevant time and the proposal shall not be rejected for the reasons mentioned in the impugned orders. The decision shall be taken as expeditiously as possible and in any case within six weeks.

6. The writ petitions are disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)