



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

WRIT PETITION NO. 434 OF 2023

Rajesh S/o Lingoji Patil,
Age : 28 Years, Occu. : Service
as Shikshan Sevak,
R/o Vitthalnagar, Naigaon,
Tq. Naigaon, Dist. Nanded.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Secretary, School Education
Department, Mantralaya,
Mumbai – 32.
 2. The Divisional Deputy Director
of Education, Latur Division,
Latur, Tq. & Dist. Latur.
 3. Education Society Naigaon (Bajar)
Tq. Naigaon, Dist. Nanded.
Through its Secretary.
 4. Janta High School and Junior College,
Naigaon (Bajar), Tq. Naigaon (Khair),
Dist. Nanded, through its Principal.
- .. Respondents

Shri V. S. Panppte, Advocate for the Petitioner.
Shri D. R. Korde, A.G.P. for the Respondent Nos. 1 and 2.
Shri R. C. Bramhankar, Advocate for the Respondent No. 3.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 01 JULY 2024.**

JUDGMENT (Per Shailesh P. Brahme, J.) :-

. Rule. Rule is made returnable forthwith. With the consent of parties taken up for final hearing at the admission stage.

2. Petitioner is challenging order of rejection of his proposal seeking approval to his appointment issued by the respondent No. 2/Deputy Direct of Education on 05.05.2022. Only reason cited in the impugned order is that the appointment of the petitioner is without following Government Resolution dated 23.06.2017.

3. Learned counsel for the petitioner submits that petitioner belongs to O.B.C. category. There was vacancy of two posts of O.B.C. Application was submitted by the respondent/management on 20.06.2018 intimating the vacancies. No endeavour was made by the education department to refer any surplus teacher. Then advertisement was published on 07.10.2021. In pursuance of that petitioner was appointed by order dated 20.10.2021.

4. He further refers to our **order dated 10.06.2024 in Writ Petition No. 13150 of 2022** in the matter of **Shaikh Jaweria Khadarsab Vs. The State of Maharashtra and others, judgment dated 10.07.2017**, judgment in **Smt. Munoli Rajashri Karabasappa Vs. State of Maharashtra and others in Writ Petition No. 8587 of 2016** and judgment dated **21.06.2024** rendered in the matter of **Avinash Marotirao Kamble Vs. State of Maharashtra and others in Writ Petition No. 9163 of 2021**.

5. Learned Assistant Government Pleader supports impugned order and relies on the judgment rendered by this Court in the matters of **Pravin Bodhu Kasbe Vs. The State of Maharashtra and others in Writ Petition No. 3142 of 2020 vide judgment dated 03.08.2021**. He would submit that petitioner was not appointed as per Government Resolutions dated 23.06.2017, 20.06.2018 and 07.02.2019.

6. Record reveals that the petitioner belongs to O.B.C. category. Roster examined by the B. C. cell indicates backlog of two posts of O.B.C. category at the relevant time. Besides that, there was prior intimation of vacancies by the management to the education department vide application dated 20.06.2018, which was not responded. We find that there is no objective scrutiny of the proposal of the petitioner by the Deputy Director of Education.

7. We have consistently following our view taken in the matter of **Shaikh Jaweria Khadarsab Vs. The State of Maharashtra and others** (supra) in number of judgments which are cited by the petitioner during the course of hearing. Proposal of a teacher cannot be rejected merely on the ground of non adherence to procedure laid down in Government Resolution dated 23.06.2017. We have held that policy of recruitment through Pavitra Portal has not been put to desired use. We propose to follow same view in the present matter. We are not oblivious of the law laid down in the matter of **Pravin**

Bodhu Kasbe Vs. The State of Maharashtra and others (supra). It would be open for the respondent/Deputy Director of Education to examine the proposal in tune with the directions issued by the Division Bench.

8. Writ petition is partly allowed. Impugned order dated 05.05.2022 passed by the respondent No. 2/Deputy Director of Education, Latur is quashed and set aside. The respondent No. 2/Deputy Director of Education, Latur shall consider the proposal afresh on its own merits and shall take the decision as expeditiously as possible and in any case within a period of four (04) weeks from today. It shall not be rejected on the grounds stated in the impugned order again. Rule is made absolute in above terms.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/July 24