



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1044 WRIT PETITION NO. 10214 OF 2024

ASHWINI VASANT MAHAJAN AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

...
Advocate for Petitioners : Mr. Panpatte V. S.
AGP for Respondent Nos. 1 to 3 : Mr. P.S. Patil

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

DATE : 24 OCTOBER 2024

PER COURT :

. Heard.

2. The petitioners are challenging the order passed by the respondent no.3/Education Officer (Secondary), Zilla Parishad, Jalgaon dated 07.06.2024, refusing to grant approval to their appointments on the ground that the appointments were not made through the Pavitra Portal in the light of the Government Resolution dated 23.06.2017.

3. We have already taken a view by 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 that the Education Officer/Deputy Director of Education has to conduct objective scrutiny of the proposal and it cannot be rejected only on the ground that procedure as contemplated by the Government Resolution was not followed.

4. In that view of the matter, we dispose of writ petition by quashing the impugned order dated 07.06.2024 and directing the respondent no.3/ Education Officer (Secondary), Zilla Parishad, Jalgaon to reconsider the proposals of the petitioners for grant of approval to their appointments on their own merits. The decision shall be taken as expeditiously as possible, and in any case, within a period of four (04) weeks from today. However, those shall not be rejected on the grounds mentioned in the impugned order.

5. Before parting, it would be apposite for us to record the experience which we had over a period of time, as to the manner in which similar petitions are frequently coming before this Court.

6. We are not for the time being considering the matter in the light of for a and the remedy provided under the Government Resolution dated 27.03.2024. We are merely recording the observations so that it would enlighten the Education Officers and the Deputy Directors to whom proposals for grant of approval to the appointments of teaching and non-teaching staff of educational institutes are forwarded.

7. Our experience shows that invariably such proposals are turned down rather refused to be considered, only for the reason that the appointments are not made in accordance with the three different Government Resolutions, expecting the recruitment to happen through the Pavitra Portal. It may be that their view that the appointments stand vitiated for this reason may be a ground

for them not to grant approval. However, what happens is that these authorities are expected to decide the proposals comprehensively, on their own merits, including other aspects as well, like observance of the requisite modalities, as laid down under Section 5 of the M.E.P.S. Act and Rule No.9 of the M.E.P.S. Rules and all other relevant Government Resolutions issued from time to time. Instead of taking a comprehensive decision on all counts, the proposals are merely returned or not considered or disposed of observing that the appointments are not through Pavitra Portal. If a decision is to be taken on a proposal for grant of approvals, it invariably should be on its own merits and on all counts and in the process, the Officers may resort to their consistent stand of the recruitment being not through the Pavitra Portal.

8. This results in initial refusal by Education Officers or Deputy Directors to consider the proposal simply by referring to non-observance of the relevant Government Resolutions and the recruitment being not through the Pavitra Portal. The orders are challenged before the High Court and in the light of consistent stand of many benches, the matters are remanded back for considering the proposals on their own merits, by observing that the objection as to the recruitment not being through Pavitra Portal is not sustainable in law.

9. This shunting of the issue can be obviated if these officers pass a comprehensive order and in the process even resort

to their consistent stand of non-observance of the Government Resolutions providing for recruitment through Pavitra Portal.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Thakur-Chauhan/-