

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11516 OF 2024

Jaybharat Shikshan Prasarak Mandal & Ors ...Petitioners

Versus

The State Of Maharashtra and Ors ...Respondents

Mr. Prashant Bhavake for the Petitioners.

Ms Nisha Mehra, AGP for the Respondent Nos. 1 to 5

**CORAM : NITIN JAMDAR &
M. M. SATHAYE, JJ.**

DATED : 22 AUGUST 2024

P.C.:

1. Heard learned counsel for the parties.
2. Petitioner No. 1 Education Institute, Petitioner No. 2 High School and Petitioner No. 3 employee (Madhavi Ajit Kore Nee. Mahadevi Anna Navalgi) are jointly challenging the Order dated 20 December 2023 passed by Respondent No. 5 / Education Officer (Secondary), Zilla Parishad, Kolhapur. By said impugned Order, the approval for appointment of Petitioner No. 3 as Junior Clerk is returned.
3. Perused the impugned Order, which is admittedly passed without any show cause notice / opportunity / hearing to Petitioners. Had an opportunity been given, the Petitioners would have given appropriate

and necessary explanation to reasons stated in impugned order for rejecting proposal. It has resulted in a situation where inquiry about the grounds of rejection are required to be done first time in this Court.

4. One of the reasons (reason No. 6) for rejecting the proposal is the ban under communication dated 5 May 2020. It is an admitted position before us that the said ban was based on Government Resolution (GR) dated 4 May 2020 issued due to the situation brought about by Covid-19 Pandemic. That situation no longer exists and the ban has been lifted. Therefore, that reason in the impugned order no longer survives and is accordingly set aside.

5. So far as reason no. 5 in the impugned order is concerned, it is relating to certain Government Resolutions (GRs) about staffing pattern. Learned Counsel for the Petitioners submits that if an opportunity is given, the Petitioner Management will point out the present position based on concerned GRs and applicable orders of this Court. Other reasons are factual in nature.

6. In that view of the matter, we dispose of this petition by directing that the impugned order dated 20 December 2023 will be treated as notice to Petitioners of the proposed ground/s for return/rejection of Petitioner No. 3's proposal, which stands restored. If there are any other grounds on which the Respondent Education Officer intends to return or reject the proposal, he is directed to communicate the same to the

Petitioners within a period of 3 weeks from today.

7. The Petitioners shall thereafter submit its explanation to the proposed grounds, along with supporting material including government resolutions, case laws etc. if relied upon. The Respondent Education Officer is directed to decide the proposal of Petitioner No. 3 thereafter within a period of 8 weeks, by dealing with the explanation given by the Educational Institute as also dealing with case law/orders of this Court, by passing a reasoned order, subject to other time bound directions. The order will be passed keeping in mind the directions issued by this Court in Part II Clause A(i) to (iii) of the judgment in the matter of *Nitin B. Tadge Vs. State of Maharashtra in Writ Petition No. 204 of 2019* and other companion petitions.

8. We have not expressed any opinion on the Petitioners' proposal and the same shall be decided on its own merits in accordance with law. Needless to mention that if the Respondent Education Officer proceeds to grant proposal as prayed, consequent benefits and orders will follow.

9. The writ petition is disposed of in the aforesaid terms.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)