

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

WRIT PETITION NO. 5043 OF 2023

Smt. Varsha Kamlesh Parab
(Nee Varsha Vishwanath Chavan)

...Petitioner

V/S

The State Of Maharashtra And Ors

...Respondents

Mr. Prashant Bhavake for the Petitioner.

Mr. Utkarsh Desai for the Respondent Nos. 6 & 7.

Mr. S. B. Kalel, AGP for the Respondent-State

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

DATED : 27 AUGUST 2024

P.C.:

. Heard learned counsel for the parties.

2. Petitioner/ employee working with Respondent No. 7 School run by Respondent No. 6 Educational Institute, is challenging the Order dated 25 October 2022 (issued on 2 November 2022) passed by Respondent No. 5 / Education Officer (Secondary), Zilla Parishad, Sindhudurg. By said impugned Order, the approval for Petitioner's appointment as Junior Clerk is rejected. Learned counsel for the Respondent Nos. 6 & 7 states that there is no internal dispute in the Management and they are supporting the cause of the Petitioner.

3. Perused the impugned Order which is admittedly passed by simply listing the shortfalls, but without giving any opportunity to the Respondent Management to explain. Had an opportunity been given, the Petitioner / Respondent Management would have given appropriate and necessary explanation/s about shortfalls stated in the impugned order for rejecting proposal. This has resulted in a situation where inquiry about the grounds of rejection are required to be done first time in this Court.

4. Reason No. 12 in the impugned order is the ban under Government Resolution (GR) dated 4 May 2020 communicated by letter dated 5 May 2020. It is an admitted position before us that the ban imposed by the said GR was due to the situation brought about by Covid-19 Pandemic, which no longer exists and the ban has been lifted. Therefore, this ground in the impugned order no longer survives and the same is set aside. Rest of the grounds are factual in nature.

5. In that view of the matter, we dispose of this petition by directing that the impugned order will be treated as notice to Respondent / Educational Institute of the proposed ground/s for rejection of Petitioner's proposal, which stands restored. The Affidavit in Reply filed on behalf of Education Officer shall also be treated as a prima facie opinion. 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 Respondent/Educational Institute within a period of 3 weeks from today.

6. The Respondent Educational Institute shall thereafter submit its explanation to the proposed grounds, along with supporting material including government resolutions, case laws / orders of this Court etc. if relied upon. The Respondent Education Officer is directed to decide the Petitioner's proposal 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*¹.

7. We have not expressed any opinion on the Petitioner's 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.

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

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)

¹ 2024 SCC OnLine Bom 1116