

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12482 OF 2024

Amol Mahavir Borgave

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Prashant Bhavake, for Petitioner.

Mr. S. H. Kankal, AGP for Respondent Nos.1 to 4.

Mr. Utkarsh Desai for Respondent Nos. 5 and 6.

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

DATE : 20 SEPTEMBER 2024

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P.C.:

1. Heard learned counsel for the parties.
2. The Petitioner is working with Respondent Nos. 5 and 6- Management, who had submitted a proposal for approval of the appointment of the Petitioner as Laboratory Assistant to the Respondent No.4 - Deputy Director of Education, Kolhapur, being an appointment in a junior college. Learned counsel for the Respondent Nos. 5 & 6 (Management) appears in support of the Petitioner, and undertakes to file duly signed Vakalatnama with necessary resolution in his favour within a period of 1 week from today.
3. By the impugned order dated 12 February 2024 the proposal

was rejected. The impugned order states that by communication dated 2 August 2023, the shortfalls were communicated to the Respondent- Management. Thereafter, the impugned order refers to the stay granted by this Court in Writ Petition No. 5058 of 2021 & Writ Petition No. 8007 of 2021. Learned counsel for the Petitioner has rightly pointed to us that by subsequent order dated 6 February 2024 passed in said petitions, the interim order has been vacated and petitions have been disposed of.

4. Therefore, the matter will have to be now decided on its own merits by the Respondent- Deputy Director since by the impugned order the proposal has not been decided on merits.

5. In that view of the matter, we dispose of this petition by setting aside the impugned order and restoring the Petitioner's proposal. If there are any other grounds on which the Respondent Deputy Director 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. Thereafter, the Respondent Deputy Director is directed to decide the proposal 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.

7. 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.

8. 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 Deputy Director 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.)

¹ 2024 SCC OnLine Bom 1116