

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

Writ Petition No.11186 of 2024

Chandrakant Ananda Kute and anr. ... Petitioners.

V/s.

The State of Maharashtra

Thr. The Secretary,

School Education Department

and Ors.

... Respondents.

Mr.Narendra V. Bandiwadekar, Senior Advocate a/w. Mr. Ravi
Kadam for the Petitioner.

Mr. V.G.Badgujar, AGP for the State.

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

DATE : 13 August 2024.

P.C. :

Heard learned counsel for the parties. Leave is granted to correct the education qualification of the Petitioner No. 1 in Paragraph 2, Page 4 and qualification mentioned in the advertisement in Paragraph 6. Amendment to be carried out forthwith.

2. Petitioner No.1-Employee working with school run by Petitioner No. 2-Education Institute are jointly challenging the Order dated 13 June 2024 passed by Respondent No. 3-Education

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Officer (Secondary), Zilla Parishad, Sangli. By said impugned Order, the approval for appointment of Petitioner No. 1 as Shikshan Sevak is rejected.

3. Perused the impugned Order, which is admittedly passed without any show cause notice or hearing to the 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. In that view of the matter, we dispose of this petition by directing that the impugned order dated 13 June 2024 will be treated as notice to Petitioners of the proposed ground/s for rejection of Petitioner No. 1'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.

5. The Petitioners 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 proposal of Petitioner No. 1 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.

6. As regards the reason of availability of surplus teachers taken in the impugned order is concerned, the Education Officer had rejected the request for sending the names of the surplus teachers by order dated 25/26 April 2023. It is open to the Petitioners to point out this factual position to the Education Officer, who will deal with this position in the order that will be passed, and give specific reasons. Not doing so will be considered as breach of the order of the Court.

7. The order will be passed keeping in mind the directions issued by this Court in Part II Clause A(i) to (iii) of *Judgment dated 16 April 2024* in the matter of *Nitin B. Tadge Vs. State of Maharashtra*¹.

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.)

¹ 2024 SCC OnLine Bom 1116