

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12403 OF 2024

Prashant Rajendra Karade

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Prashant Bhavake for the Petitioner.

Mr. S.B. Kalel, AGP for Respondent Nos. 1 to 5/State.

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

SNEHA
NITIN
CHAVAN

Digitally signed
by SNEHA NITIN
CHAVAN
Date: 2024.09.09
15:35:41 +0530

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

DATE : 6 SEPTEMBER 2024

P.C. :

. Heard learned counsel for the parties.

2. Petitioner/ employee working with Respondent No. 7 High School run by Respondent No. 6 Educational Institute, is challenging the order dated 11 November 2022 passed by Respondent No. 5 / Education Officer (Secondary), Zilla Parishad, Kolhapur. By said impugned order, the approval for Petitioner's appointment as Junior Clerk is rejected.

3. Learned counsel for Respondent No. 6 & 7 states that there is no internal dispute in the Management and they are supporting the

cause of the Petitioner. Subject to filing of duly signed vakalatnama by learned advocate for Respondent No. 6 & 7 duly supported by a resolution of Respondent Management Trust within 1 week from today, following order will operate. If it is not so filed, the petition will stand dismissed without further reference to Court.

4. Perused the impugned order, which is admittedly passed without any show cause notice / hearing the Petitioner or Respondent Management. Had an opportunity been given, the Petitioner / Respondent Management 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.

5. Reason No. 7 in the impugned order is based on ban under Government Resolution (GR) dated 4 May 2020 communicated under 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.

6. In that view of the matter, we dispose of this petition by directing that the impugned order dated 11 November 2022 will be

treated as notice to Respondent / Educational Institute of the proposed ground/s for rejection of Petitioner'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 Respondent/Educational Institute within a period of 3 weeks from today.

7. 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 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.

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 Education Officer proceeds to grant proposal as prayed, consequent benefits and orders will follow.

1 2024 SCC OnLine Bom 1116

9. If the decision is adverse to the Petitioner, it will be challenged before the Appellate Authority recently provided under Government Resolution dated 27 March 2024.

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

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)