

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

WRIT PETITION NO. 15538 OF 2023

Avinash Sanjay Koli

...Petitioner

Versus

The State of Maharashtra
Thr. Principal Secretary Department
of School Education & Ors.

...Respondents

Mr. Chetan Patil i/by Mr. Mandar Bagkar, Advocate for the
Petitioner.

Mr. Vikas Mali, AGP for the Respondent Nos.1 to 3.

Mr. Bhushan Jadhav, Advocate for Respondent Nos.4 and 5.

**CORAM : RAVINDRA V. GHUGE
&
M.M. SATHAYE, JJ.**

DATE :- 7th OCTOBER, 2024

PER COURT :-

1. We have extensively heard the learned Advocates for the respective sides. However, upon consideration of their submissions and on perusal of the Petition paper book with their assistance, we find that the impugned order has been passed without even granting an opportunity of hearing to the Petitioner.

2. In the cases of *Erusian Equipment and Chemicals Ltd. And Others V/s. State of West Bengal, (1975) 1 SCC 70* and *State Bank of India and others V/s. Rajesh Agarwal and Others, (2023) 6 SCC 1*, the Hon'ble Supreme Court has concluded that when an order is passed prejudicial to the interest of an individual and if the effect of the said order is such that it has the trappings of an order of punishment or clearly evidences that an opportunity of hearing has to be granted to the Petitioner before a consequential order on appreciation of material, could be passed, the Principles of Natural Justice have to be adhered to.

3. The learned AGP representing the Education Officer (Secondary) submits on the basis of the record that there is no document, either referred to in the impugned order or which can be cited by the department to or for indicating that the Petitioner was issued with a show cause notice for granting an opportunity of hearing, before the impugned order was passed.

4. In view of above, on a limited ground, **this Writ Petition is partly allowed**. The impugned order dated 31st August, 2023 is quashed and set aside. The matter is remitted to the office of the

Deputy Director of Education Kolhapur, Division Kolhapur to issue a show cause notice to the Petitioner and after granting a reasonable opportunity of hearing to him, a reasoned order would be passed on the issue before the Deputy Director. If the order is adverse to the interest of the Petitioner, he would be at liberty to challenge the same by availing of a remedy as is permissible in law. All contentions in the light of the same are kept upon

5. The Deputy Director of Education shall complete the hearing and pass a reasoned order, within a period of 90 days from today.

(M.M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)