

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12843 OF 2024

Navjeevan Gram Vikas Tarun Mandal And Anr. ...Petitioners

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. Vinayak Kumbhar i/b. A.N. Bandiwadekar, for Petitioner.

Mr. S.B. Kalel, AGP for Respondent/State.

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

DATE : 20 SEPTEMBER 2024

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P.C.:

. Heard learned counsel for the parties.

2. Petitioner No. 1 Education Institute running Petitioner No. 2 High School are jointly challenging the order dated 14 September 2021 passed by Respondent No. 3 / Education Officer (Secondary), Zilla Parishad, Solapur. By the said impugned order, approval to appointment of Respondent No. 4 as Peon is rejected by implication.

3. Perused the impugned order. Petitioner has sufficiently explained reasons for delay/laches in paragraph 12 of the petition. By the impugned order, instead of either granting or rejecting the approval, the Respondent Education Officer has directed appointment on honorarium basis, based on Government Resolution (GR) dated 11 December 2020. This is implied rejection.

4. Learned counsel for the Petitioner submitted that the said GR is applicable prospectively and not retrospectively. He submitted that the concerned Appointment is of the year 2009 and as such the said GR would not apply. He submitted that since the impugned order is passed without hearing the Petitioners, this could not be explained and if an opportunity is given, the Petitioners will give necessary explanation.

5. In that view of the matter, we dispose of this petition by directing that the impugned order dated 14 September 2021 will be treated as notice to Petitioners of the proposed ground/s for rejection of Respondent No. 4'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/she is directed to communicate the same to the Petitioners within a period of 3 weeks from today. The Petitioners shall thereafter submit their explanation to the proposed grounds, along with supporting material including government resolutions, case laws / orders of this Court etc. if relied upon.

6. Thereafter within a period of 8 weeks, subject to other time bound directions, the Respondent Education Officer is directed to decide the proposal 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. 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 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.

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

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)

¹ 2024 SCC OnLine Bom 1116