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

WRIT PETITION NO. 3636 OF 2023

Anil Mahadev Kesarkar

....Petitioner

V/S

The State Of Maharashtra And Ors

....Respondents

Mr. Prashant Bhavake for the Petitioner

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

Mr. V. M. Mali, AGP for the Respondent-State

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

DATED : 27 AUGUST 2024

P.C.:

1. Heard learned counsel for the parties.

2. Petitioner/ employee working with Respondent No. 7 School and Junior College run by Respondent No. 6 Educational Institute, is challenging the Order dated 22 September 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. Learned counsel for the Respondent Nos. 6 & 7 states that there is no internal dispute in the Management and they are supporting the cause of the Petitioner.

3. Perused the impugned Order which is admittedly passed by simply

listing the shortfalls, but without giving any opportunity to the Respondent Management to explain. Had an opportunity been given, the Petitioner / Respondent Management would have given appropriate and necessary explanation/s about shortfalls stated in the impugned order for rejecting proposal. This 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 20 September 2022 will be treated as notice to Respondent / Educational Institute of the proposed ground/s for rejection of Petitioner's proposal, which stands restored. The Affidavit in Reply filed on behalf of the State shall also be treated as a *prima facie* opinion. 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.

5. 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 Petitioner's 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.

6. 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.

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

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)

¹ 2024 SCC OnLine Bom 1116