

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

WRIT PETITION NO. 11329 OF 2024

Yogesh Prakash Kore

...Petitioner

Versus

The State Of Maharashtra And Ors

...Respondents

Mr. Prashant Bhavake for the Petitioner.

Mr. S. H. Kankal, AGP for the Respondent Nos. 1 to 5

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

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

DATED : 22 AUGUST 2024

P.C.:

. Heard learned counsel for the parties.

2. Petitioner/ employee working with Respondent No. 7 School run by Respondent No. 6 Educational Institute, is challenging the Orders dated 10 July 2023 and 6 December 2022 passed by Respondent No. 5 / Education Officer (Secondary), Zilla Parishad, Kolhapur. By said impugned Orders, the approval for Petitioner's appointment as Shikshan Sevak on aided post is rejected. Learned counsel for the Respondent No. 6 & 7 states that there is no internal dispute in the Management and they are supporting the cause of the Petitioner.

3. It is submitted that the impugned order dated 10 July 2023 is passed making reference to the earlier impugned order dated 6 December 2022 (wrongly stated as 2023 but reference number 791 is matching). It is submitted that the shortfalls communicated under impugned Order dated 6 December 2022 were removed and necessary explanation was given under covering letter dated 18 April 2023 alongwith supporting documents, copies of which are produced on record.

4. Perused the impugned Orders. Copy of covering letter dated 18 April 2023 shows that it bears acknowledgment dated 24 May 2023 from office of Respondent No. 5. Apparently the impugned order dated 10 July 2023 is passed without any reasons and simply re-iterating objections raised earlier. It is passed without any opportunity / hearing to the Petitioner / Respondent Management, who have actually already given appropriate and necessary explanation to shortfalls. The short falls are factual in nature. It has resulted in a situation where inquiry about the factual aspects are required to be done first time in this Court.

5. In that view of the matter, we dispose of this petition by directing that the impugned orders dated 10 July 2023 and 6 December 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.

6. 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 any, if not already submitted. 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 in Writ Petition No. 204 of 2019* and other companion petitions.

7. 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, and in that case, the aforesaid procedure/directions will not apply.

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

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)