

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

WRIT PETITION NO. 3083 OF 2023

Shikshan Prasarak Mandal Though Its
President/Secretary & Ors.

...Petitioners

Versus

The State Of Maharashtra And Ors

...Respondents

Mr. Prashant Bhavake for the Petitioners

Mr. S. B. Kalel, AGP for the Respondent-State

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

DATED : 27 AUGUST 2024

P.C.:

. Heard learned counsel for the parties.

2. Petitioner No. 1 Education Institute, Petitioner No.2 School and Petitioner No. 3 employee (Girish Dattatray Huddar) are jointly challenging the Order dated 1 April 2022 passed by Respondent No. 5 / Education Officer (Secondary), Zilla Parishad, Kolhapur. By said impugned Order, the approval for appointment of Petitioner No. 3 as Junior Clerk is rejected.

3. Perused the impugned Order, which is admittedly passed without any show cause notice or hearing to Petitioners. Had an opportunity been

given, the Petitioners 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.

4. One of the reasons in the impugned order is the ban under Government Resolution (GR) dated 4 May 2020 communicated by 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.

5. In that view of the matter, we dispose of this petition by directing that the impugned order dated 1 April 2022 will be treated as notice to Petitioners of the proposed ground/s for rejection of Petitioner No. 3's proposal, which stands restored. The Affidavit in Reply filed on behalf of Education Officer 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 Petitioners within a period of 3 weeks from today.

6. 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. The

Respondent Education Officer is directed to decide the proposal of Petitioner No. 3 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.

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