

WRIT PETITION NO. 13270 OF 2024

2. Issue notice to the Respondents, returnable on 18th November, 2024. The learned AGP waives service of notice on behalf of

Respondent Nos. 1 to 3. The learned Advocate Mr.Patil, waives service of notice on behalf of Respondent Nos.4 and 5.

3. The Petitioners have specifically contended in paragraph 22 of the Petition, as under :

*“22. It appears that the Respondent Zilla Parishad circulated a seniority list on 28th April 2021 by the Education Officer (Primary). Annexed hereto and marked as **Exhibit L** is a copy of the said Seniority List. The said seniority was inconformity with the District Service (Recruitment) Rules, 1967 and GR dated 16th February 2018. In the said List the Petitioners were shown as qualified and eligible for the said Promotion. It appears that Respondent Zilla Parishad acted upon the said seniority and given promotion in favour of Suhas Tukaram Patil. Similarly, they have also promoted three more candidates viz. Rangrao Tukaram Barge, Balu Hariba Pradhan, Manisha Kiran Kukade who are similarly situated and identical placed and were also Junior to the Petitioners. However, suddenly, Respondent Zilla Parishad suspended the said process and sought clarification from Respondent State. It appears that Respondent State gave clarification on 12th September 2023 addressing DO letter to Zilla Parishad Solapur. Vide the said Letter it was clarified that three years which is the requirement for promotion to the post of Cluster Head is to be counted from the date the candidates acquired BA, B.Com, B.Sc and B.Ed qualification. Annexed hereto and marked as **Exhibit M** is a copy of the Letter dated 12th September 2023”.*

4. The learned Senior Advocate for the Petitioners has pointed out the Maharashtra Zilla Parishads District Services (Recruitment)

(Second Amendment) Rules, 2014 (hereinafter, the Rules), more specifically Clause 4, which reads as under:

*“(4) (i) The total sanctioned posts shall be equally divided in the subjects of Mathematics and Science, Languages and Social Science (History and Geography);
(ii) the ratio of recruitment for subjects mentioned in sub-clause (i) of this clause are as under,
(I) Language -
(i) English -50%
(ii) First Language
Marathi, Urdu etc. 30%
(iii) Second Language Hindi -20%
(II) Mathematics and Science -100%
(III) Social Sciences (History and Geography) -100%”.*

5. The learned Advocate representing Zilla Parishad points out from the letter dated 27th September, 2023 issued by Shri Tushar Mahajan, Deputy Secretary, School Department and Sports Department, Government of Maharashtra, to contend that bifurcation for the faculties of languages, social sciences and sciences, have been done away with. A copy of the said letter is taken on record and marked '**X-1**' for identification. The learned Senior Advocate representing the Petitioners submits that what is engrafted in the Rules, cannot be neutralised by such a letter, '**X-1**'.

6. In the above backdrop, we have perused the order passed by this Court dated 28th August, 2024 in Writ Petition No. 11311 of 2024,

wherein this Court had concluded that the Zilla Parishad will commence the process of appointment of the Cluster Head (Kendra Pramukh) from 2nd September, 2024 and the Petitioners, who have completed three years, will also be considered in the said process of appointment.

7. The Petitioners strenuously contend that all the 68 positions have now been filled in, in great haste yesterday and all such appointments are in contravention of the Rules applicable and the conclusion of this Court in the order dated 28th August, 2024.

8. *Prima facie*, we find that the Petitioners have made out an arguable case and though this Court has expressed a view in the order dated 28th August, 2024 that these Petitioners are eligible, none of these Petitioners have been considered.

9. In view of the above, we direct that, if the appointments have been made, such appointments shall be made subject to the result of this Petition and no equities would be created in favour of any of the new appointees, inasmuch as, their appointments would not be regularized/confirmed without the leave of the Court.

(M.M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)