

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6209 OF 2019

Ansari Irfan Ahmad Riyaz Ahmad

...Petitioner

Versus

The State of Maharashtra And Ors.

...Respondents

.....

Mr. Saurabh Pakale a/w. Nilesh Desai i/b. S.M. Katkar, Advocate
for Petitioner.

Ms. Neha Bhide, 'B' Panel Counsel, for Respondent Nos. 1 & 2/
State.

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

DATE : 10 JANUARY 2024

P.C.:

. Heard learned counsel for the parties. None appears for the Management and High School (Respondent Nos. 3 & 4) though duly served.

2. Petitioner/Employee, working as peon with Respondent No. 3 High School run by Respondent No. 4 Management, is challenging the impugned Order / Communication dated 26 September 2017 by which Respondent No. 2 - Education Officer (Secondary), Zilla Parishad Thane has rejected approval to the Petitioner's proposal. Learned counsel for the Petitioner submits on instructions, that

though Respondent Nos. 3 & 4 are not Co-Petitioners with him, they are supporting the cause of the Petitioner till today. We proceed on the basis of said statement.

3. It is submitted that the reason given in impugned Order is not legal and correct and given an opportunity, the Petitioner and Respondent Management would be able to give necessary explanation including change in legal position.

4. Indeed, we find in many such matters that the proposals are rejected without communicating the grounds for rejection and we also find that had the Educational Institute been given an opportunity, it would have given an explanation dealing with the grounds of rejection. This method adopted by Education Officer of directly rejecting the proposals, without informing proposed grounds of rejection, is giving rise to flood of litigation which takes precious judicial time of this Court because an inquiry about the grounds of rejection are required to be done in this Court at the first instance.

5. In that view of the matter, we dispose of this petition by directing that the impugned order dated 26 September 2017 will be treated as notice to Respondent/Educational Institute of the proposed ground of rejection. The Petitioner's proposal stands restored. If there are any other grounds on which the Education Officer intends to 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 of rejection, along with supporting material and case laws/orders of this Court, if relied upon. 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 within a period of 8 weeks from the receipt of explanation from the Educational Institute, subject to other time bound directions.

7. We have not expressed any opinion on the merits of 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 approval, 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.)