

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4463 OF 2022
WITH
INTERIM APPLICATION NO. 3422 OF 2022

Burambi Panchkroshi Shikshan Sanstha And Ors. ...Petitioners
Versus
The State Of Maharashtra And Ors. ...Respondents

WITH
WRIT PETITION NO. 9900 OF 2022

Lokmanya Shikshan Prasarak Mandal And Ors. ...Petitioners
Versus
The State Of Maharashtra And Ors. ...Respondents

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WITH
WRIT PETITION NO. 9524 OF 2022

Yashwant Shikshan Sanstha Thr Its President And Ors ...Petitioners
Versus
The State Of Maharashtra And Ors. ...Respondents

WITH
WRIT PETITION NO. 9525 OF 2022

Yashwant Shikshan Sanstha Thr Its President And Ors. ...Petitioners
Versus
Versus
The State Of Maharashtra And Ors. ...Respondents

Mr. Prashant S. Bhavake, for the Petitioners in all Petitions.
Mr. V.M. Mali AGP for Respondent/State in WP/4463/2022 &
WP/9524/2022.
Mr. S.B. Kalel AGP for Respondent/State in WP/9900/2022.

Mr. M.M. Pabale AGP for Respondent/State in WP/9525/2022.

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

DATE : 3 APRIL 2024

P.C.:

. Heard learned counsel for the parties. Perused the record.

2 The employees and concerned Managements are jointly challenging the impugned orders in this group of petitions. Necessary details for passing this common order are given below:

2.1 Writ Petition No. 4463 of 2022 is filed challenging the impugned Order dated 18 November 2021 by which the proposal for appointment of Petitioner No. 3 – Mangesh Suresh Jadhav as Junior Clerk is refused by Respondent No. 5 - Education Officer (Secondary), Zilla Parishad, Ratnagiri.

2.2 Writ Petition No. 9900 of 2022 is filed challenging the impugned Order dated 18 April 2022 by which the proposal for appointment of Petitioner No. 3 – Sanskruti Satish Pednekar as Full-Time Librarian is refused by Respondent No. 5 - Education Officer (Secondary), Raigad Zilla Parishad, Alibaug.

2.3 Writ Petition No. 9524 of 2022 is filed challenging the impugned Order dated 31 March 2022 by which the proposal for appointment of Petitioner No. 3 – Mahesh Baban Tilekar as

Junior Clerk is refused by Respondent No. 5 - Education Officer (Secondary), Zilla Parishad, Satara.

2.4 Writ Petition No. 9525 of 2022 is filed challenging the impugned Order dated 31 March 2022 by which the proposal for appointment of Petitioner No. 3 – Mahesh Balkrishna Chavan as is refused by Respondent No. 5 - Education Officer (Secondary), Zilla Parishad, Satara.

3. The impugned orders are passed *inter alia* either on the ground of ban on recruitment under Government Resolution dated 4 May 2020 and 5 May 2020 which were issued owing to Covid 19 Pandemic situation or due to stay given to new staffing pattern in the aided schools under Government Resolution dated 28 January 2019 and subsequent follow up Resolution dated 7 March 2019.

4. Relying on the order passed by this Court in Writ Petition No. 11499 of 2022 dated 9 February 2024, learned counsel for the Petitioners submitted that since the ban imposed due to Covid situation has been lifted and subsequent Government Resolutions dated 12 April 2022 and 31 October 2022 are issued, this reason in the impugned orders is no longer sustainable. Further relying upon this Court's order dated 6 February 2024 in Writ Petition No. 5058 of 2021 and Writ Petition No. 8007 of 2021, it is submitted that the stay granted on Government Resolution dated 28 January 2019 and 7 March 2019 has also been vacated and the said writ petitions are

now disposed of and therefore this reason in the impugned orders also cannot be sustained.

5. Perusal of the impugned orders and above orders relied upon by the learned counsel for the Petitioners, shows that the contention is correct. The ban imposed due to the Pandemic has been lifted and stay to new staffing pattern has also been vacated.

6. In that view of the matter, these two reasons in the impugned orders are unsustainable and therefore, the impugned orders are required to be set aside to that extent. So also, the other reasons in the impugned orders, if any, are taken without any show cause notice to the Petitioners. For this reason also, impugned orders need to be set aside as inquiry in respect of such reasons cannot be undertaken for the first time in this Court. Hence, we dispose of these Petitions by passing the following order:

(a) The impugned orders will be treated as notices to Petitioners of the proposed ground/s of rejection of their proposals, which stand restored. Also affidavit in reply filed by the respective education authorities in the Petitions, if any, will be treated as their prima facie opinion.

(b) If there are any other grounds on which the Respondent-Education Officers intend to return or reject the Petitioners' proposal, they are directed to communicate the same to the respective Petitioners within a period of three weeks from today.

(c) Petitioners shall thereafter submit their explanation to the proposed ground/s, along with supporting material including government resolutions, case laws / orders of this Court etc. if relied upon.

(d) The concerned Respondent Education Officers are directed to decide the Petitioners' proposals thereafter within a period of eight weeks, by dealing with the explanation given by the Petitioners as also dealing with case law/orders of this Court, by passing a reasoned orders, subject to other time bound directions.

(e) We have not expressed any opinion on the Petitioners' proposals and the same shall be decided on their own merits in accordance with law. It is however clarified that the proposals will not be rejected on the ground of ban under Government Resolution issued due to Covid 19 Pandemic and stay to new staffing pattern. If the concerned Education Officers proceed to grant proposals as prayed, consequent benefits and orders will follow and in that case, the aforesaid directions will not apply.

(f) Writ petitions are disposed of in the aforesaid terms. Pending interim application/s, if any are also disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)