

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

WRIT PETITION NO. 8935 OF 2022

Pathan Yusuf Khan Ibrahim Khan

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Rahul Kadam i/b Kisan Dhamale for the Petitioner.

Mr. M.M. Pabale, AGP for the Respondent Nos. 1 to 3.

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

DATE : 18 JANUARY 2024

P.C. :

. Heard learned counsel for the parties. The Petitioner has challenged the order passed by Respondent No.3/the Deputy Director of Education, Pune Division, Pune dated 22 April 2022 upon an enquiry holding that the approval granted to the Petitioner's appointment on 27 January 1992 is bogus and fraudulent. Though the impugned order does not direct that the salary already paid to the Petitioner since his date of appointment till his date of superannuation on 30 June 2021 is to be recovered, by this order, the Petitioner will not get any pensionary benefits.

2. This being the consequences, we find that the grievance of the

Petitioner that an opportunity should have been given to the Petitioner is justified. The show cause notice issued to the Petitioner does not give any particulars and only state why his approval should not be cancelled and thereupon in the enquiry, this order came to be passed. If an order of this nature is to be passed, least that the Respondents could have done was to put the Petitioner to notice by incorporating the proposed grounds in the show cause notice.

3. That being the position, we dispose of the petition directing that the impugned order dated 22 April 2022 *qua* the Petitioner shall be treated as a *prima facie* opinion. It is open to the Deputy Director to furnish additional grounds including the ground of jurisdiction if any, by an additional show cause within a period of four weeks giving opportunity to the Petitioner to respond to the grounds given in the impugned order as well as additional grounds, if any, by submitting Petitioner's response. The time given to the Petitioner shall not be less than six weeks. Thereafter, the Deputy Director will pass a final order after considering the version of the Petitioner within eight weeks, subject to other time bound directions and pressing public duties.

4. Writ Petition is accordingly disposed of.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)