

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10225 OF 2023

Ansari Gulam Fareed and Anr.

... Petitioners

V/s.

State of Maharashtra and Ors.

... Respondents

.....

Mr. Narendra V. Bandiwadekar Sr. Advocate a/w Mr. Vinayak Kumbhar i/b Ashwini Bandiwadekar, for the Petitioner.

Mr. S.B. Kalel, AGP for Respondent-State in WP No. 10225/2023

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

DATE : 9 JANUARY 2024

P.C.:

. Heard learned counsel for the parties.

2. The Petitioner No. 1/ Employee and Petitioner No. 2 Management have jointly filed this petition challenging the order dated 29 November 2022 by Respondent No. 3 /Education Officer rejecting the approval for appointment of Petitioner No. 1 on the post of Junior Clerk.

3. The learned counsel for the Petitioners submitted that the impugned order is passed without giving any opportunity to the Educational Institute to submit explanation to the ground/s on which the proposal is rejected.

4. Indeed, had the Educational Institute been given an opportunity, it would have given 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 is 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 29 November 2022 will be treated as notice to Petitioners of the proposed ground/s of rejection. The Petitioners' 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 Educational Institute within a period of 3 weeks from today.

6. The Petitioners 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 Petitioners 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 and pressing public duty, if any.

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.)