

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8342 OF 2021

Uttam Popat Barkade

...Petitioner

Versus

State Of Maharashtra And Ors

...Respondents

Mr. Sandeep Phatak a/w Adhik Kadam for the Petitioner.

Mr. K.S. Thorat, AGP for the Respondents.

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

DATE : 5 JANUARY 2024

P.C. :

. Heard learned counsel for the parties.

2. Considering the order that is proposed to be passed, it is not necessary to issue notice to Respondent No.3.

3. The Petitioner has challenged the order passed by the Education Officer(Secondary), Zillha Parishad, Pune/Respondent No.2 dated 08 June 2020 rejecting the proposal submitted by Respondent No.3 on 13 February 2020. This Petition should have been filed by Respondent No.3 or atleast as a Co-Petitioner, the Educational Institute, where the Petitioner works. Since notice has been issued and served on Respondent No.3, none appeared for Respondent No.3 and the learned counsel for the Petitioner states that Respondent No.3 is still supporting the cause of the Petitioner,

we proceed on that basis.

4. The impugned order states that the proposal for the Petitioner's appointment dated 13 February 2020 cannot be considered as after Government Resolution dated 23 June 2017, the appointments have to be made following methodology laid down in the said resolution through a portal named PAVITRA Portal. There is no other reason in the impugned order.

5. The learned counsel for the Petitioner sought to contend that this Government Resolution will not apply to the Petitioner's case since the Petitioner was appointed on 1 October 2012 and is working in Respondent No.3 since then. In the Reply affidavit of the State, the Respondent have raised a doubt regarding this appointment and contended that there is no explanation why the proposal has been sent after 8 years. Therefore, the position is that in the impugned order does not give any reason.

6. If this ground of rejection was conveyed to Respondent No.3 in advance before passing the final order, necessary explanation and material could have been pointed out to the Education Officer. Such course of action adopted by the Education Officer of directly passing the order is taking substantial judicial time of this Court. Apart from this position, a factual inquiry will have to be carried out as to the appointment of the Petitioner, the date of the appointment of the Petitioner and the reason for submitting the same after 8 years.

7. In these circumstances, we direct that the impugned order dated 8 June 2020 shall be considered as a prima facie opinion of the Education Officer stating proposed grounds of rejection. The proposal sent by Respondent No.3 stands restored to the file of the Education Officer. If the Education Officer has any other ground for rejection of proposal, it will be communicated to Respondent No.3 within a period of 3 weeks from today. Respondent No.3 will thereafter submit detailed explanation about objections so conveyed by the Education Officer relying on the decisions, judicial pronouncement etc. After the explanation is so submitted, the Education officer shall pass reasoned order dealing with the same within a period of 8 weeks, subject to earlier time bond directions.

8. As regard the apprehension of the Petitioner that if approval is not granted, the Petitioner's services might be terminated, the same is unwarranted in view of decision of the full Bench of this Court in the matter of *St. Ulai High School and Another v/s. Devendraprasad Jagannath Singh and Another*¹ that merely because of approval is not granted that cannot be sole reason for termination of service for employee in the private school.

9. Writ petition is disposed of.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)

¹ 2007(1)Mh.L.J.597