

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

WRIT PETITION NO. 1734 OF 2022

Gangaram Krishna KocharekarPetitioner
V/S
The State Of Maharashtra And OrsRespondents

Mr. Prashant Bhavake for the Petitioner
Mr. Utkarsh Desai for Respondent Nos. 6 & 7
Mr. V. M. Mali, AGP for State-Respondent

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

DATED : 19 MARCH, 2024

P.C.:

1. Heard learned counsel for the parties.
2. Petitioner / employee working with Respondent No. 7 School run by Respondent No. 6 Educational Institute, is challenging the Order dated 10 April 2019 (issued on 9 May 2019) passed by Respondent No. 5 / Education Officer (Secondary), Zilla Parishad, Sindhudurg. By said impugned Order, the approval for Petitioner's appointment as Junior Clerk is rejected. Learned counsel for the Respondent Nos. 6 & 7 states that there is no internal dispute in the Management Trust / Institute and they are supporting the cause of the Petitioner.

3. It is submitted that the impugned order is passed without any show cause notice and had an opportunity been given, the Petitioner / Respondent Management would have given appropriate and necessary explanation to reasons stated in impugned order for rejection of proposal. It is also submitted that under impugned order, one of the reasons given is of code of conduct.

4. Perused the impugned Order. It has resulted in a situation where inquiry about the grounds of rejection are required to be done first time in this Court. Also code of conduct can not be treated as reason for keeping the proposal pending.

5. In that view of the matter, we dispose of this petition by directing that the impugned order Order 10 April 2019 (issued on 9 May 2019) will be treated as notice to Respondent / Educational Institute of the proposed ground/s for rejection of Petitioner's proposal, which stands restored. If there are any other grounds on which the Respondent Education Officer intends to return or 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, along with supporting material including government resolutions, case laws / orders of this Court etc. if relied upon. The Respondent Education Officer is directed to decide the

proposal thereafter within a period of 8 weeks, 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, subject to other time bound directions.

7. We have not expressed any opinion on the Petitioner's 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 proposal as prayed, consequent benefits and orders will follow, and in that case, the aforesaid procedure/directions will not apply. It is also clarified that code of conduct will not come in the way of deciding Petitioner's proposal.

8. The writ petition is disposed of in the aforesaid terms.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)