

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5001 Of 2023

Nav Maharashtra Shikshan Mandal Mangaon,
Kolhapur Through Its President/Secretary And
Ors.

...Petitioners

Versus

The State Of Maharashtra Through The
Secretary, School Education and Sports
Department, Mantralaya, Mumbai And Ors.

...Respondents

.....

Mr. Prashant Bhavake, Advocate for Petitioner.
Mr. S.B. Kalel, AGP for Respondent Nos. 1 to 5 in.

.....

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

DATE : 16 JANUARY 2024

Digitally signed
by
HUSENBASHA
RAHAMAN
NADAF
Date: 2024.01.22
19:41:16 +0530

P.C.:

. Heard learned counsel for the parties.

2. Petitioner No. 1 Management, Petitioner No. 2 – School and Petitioner No. 3 Employee are jointly challenging the Order dated 9 November 2022 passed by Respondent No. 5 / Education Officer, Zilla Parishad, Kolhapur. By said impugned Order, proposal seeking individual approval to transfer of Petitioner No. 3 from un-aided post of Peon to aided post of Peon in Petitioner No. 2 School is rejected.

3. It is submitted that, had an opportunity been given, the Petitioners would have given appropriate and necessary explanations to reasons of rejection.

4. This is yet another matter, in which Education Officer has directly rejected the proposal, without informing proposed grounds of rejection. This has resulted in a situation where inquiry about the grounds of rejection are required to be done first time in this Court.

5. In that view of the matter, we dispose of this petition by directing that the impugned order dated 9 November 2022 will be treated as notice to Petitioner Educational Institute of the proposed grounds of rejection. The Petitioners' proposal stand 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 Petitioner Educational Institute within a period of 3 weeks from today.

6. The Educational Institute shall thereafter submit its explanation to the proposed grounds of rejection, 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 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 as sought, 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.)