

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

WRIT PETITION NO. 5661 OF 2024

Gajanan Bhairu Kamble

...Petitioner

Versus

The State Of Maharashtra And Ors

...Respondents

Mr. Chetan G. Patil a/w. Mr. Mandar G. Bagkar for the Petitioner.

Mr. K. S. Thorat, 'B' Panel Counsel for the Respondent Nos. 1 to 3-State

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

DATED : 23 APRIL 2024

P.C.:

. Heard learned counsel for the parties.

2. Petitioner/ employee working with Respondent No. 5 School run by Respondent No. 4 Educational Institute, is challenging the Order dated 20 November 2023 passed by Respondent No. 3 / Education Officer (Secondary), Zilla Parishad, Kolhapur. By said impugned Order, the approval for Petitioner's appointment as Shikshan Sevak is rejected. Learned counsel for the Petitioner states on instructions that there is no internal dispute in the Respondent Management and they are supporting the cause of the Petitioner till today. We proceed on the basis of said

statement.

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 rejecting proposal.

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.

5. The Division Bench of this Court in the decision of *Nitin B. Tadge Vs. State of Maharashtra*¹ and other companion petitions after considering that in large number of cases Petitions are filed making a similar grievance, has issued the directions as under: :

“PART- II

A. (i) We direct that upon receipt of a proposal seeking approval, the Educational Authority, as per the methodology laid down in the Government Resolution dated 6 February 2012, will communicate the shortfalls/objections in the proposal submitted by the Management/Employer as the case may be calling for explanation giving them reasonable time. Upon receipt of such explanations, the Educational Authority will examine the explanation and pass a reasoned order.

¹ Writ Petition No. 204 of 2019, order dated 16 April 2024

(ii) If any judicial pronouncement is cited regarding the shortfalls/ objections in the explanation, then in the reasoned order, the Educational Authority will specifically address the legal position laid down by the said judicial pronouncement.

(iii) It is emphasized that avoiding referring to and avoiding considering the legal position laid down in the judicial pronouncement would be viewed seriously and may result in action under the contempt jurisdiction of this Court.”

6. In that view of the matter, we dispose of this petition by directing that the impugned order dated 20 November 2023 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.

7. 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. The orders will be passed keeping in mind the

directions as above.

8. 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.

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

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)