

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6205 OF 2024

Niyaz Anwar Athanikar

...Petitioner

Versus

Dy. Director Of Education, Hatti Mahal, ...Respondents
Kolhapur And Ors.

Ms. Pavitra Manesh i/b. M.S. Topkar, for Petitioner.

Mr. Abhijeet Naik, AGP for Respondent Nos.1 and 2.

Ms. Sonali Hymane ib. Mr. Ranjana Todankar for Respondent Nos.
3 and 4.

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

DATE : 8 JULY 2024

P.C.:

. Heard learned counsel for the parties.

2. Petitioner/ employee working with Respondent No. 4 - School & Junior College run by Respondent No. 3 Educational Institute, is challenging the order dated 3 October 2019 passed by Respondent No. 2 / Education Officer (Secondary), Zilla Parishad, Kolhapur. By said impugned order, the approval for Petitioner's promotion as Assistant teacher from Junior Clerk with pay protection and other benefits is rejected. Learned counsel for the Respondent No. 3 & 4 states that there is no internal dispute in the Management and they are supporting the cause of the Petitioner.

3. It is submitted that the Petitioner's appointment, initially as a Junior Clerk and then as a Shikshan Sevak and then as Assistant Teacher after completion of 3 years, are all duly approved. Approval orders dated 3 February 2004, 22 March 2005 and 1 February 2008 are produced on record. It is further submitted that Petitioner's case is supported by judgment of this Court in the case of *Suhas s/o Rangraoji More Vs. State of Maharashtra & Ors.* in Writ Petition No. 7706 of 2022, order dated 21 December 2023.

4. Perused the impugned order. It is admittedly passed without any show cause notice. 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. This has resulted in a situation where factual 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 3 October 2019 will be treated as notice to Respondent / Education 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 three weeks from today.

6. The Respondent- Education 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 eight weeks, by dealing with the explanation given by the Educational Institute as also dealing with case laws / orders of this Court, by passing a reasoned order, subject to other time bound directions. The order will be passed keeping in mind the directions issued by this Court in Part II Clause A(i) to (iii) of *Judgment dated 16 April 2024* in the matter of *Nitin B. Tadge Vs. State of Maharashtra in Writ Petition No. 204 of 2019* and other companion petitions.

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.

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

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)