

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

WRIT PETITION NO. 1039 OF 2020

Shri. Manoj Jagannath Goregaonkar ...Petitioner
Versus
The State Of Maharashtra And Ors ...Respondents

**WITH
WRIT PETITION NO. 9999 OF 2024**

Shri. Rupesh Madhukar Bhosale ...Petitioner
Versus
The State Of Maharashtra And Ors ...Respondents

Mr. Narendra Bandiwadekar, Senior Advocate a/w. Mr. V. R. Kumbhar,
Mr. Rajendra B. Khaire, Mr. Aniket S. Phapale i/b. Ms. Ashwini N.
Bandiwadekar for Petitioners
Ms. A. A. Purav, AGP for the Respondent Nos. 1 and 2

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

DATED : 13 AUGUST 2024

P.C.:

- . Heard learned Counsel for the parties.
2. Petitioners are employees of Respondent No. 4 School run by Respondent No. 3 Education Institute. The School and Education Institute are common. Petitioners are challenging the Orders dated 26

September 2017 passed by Respondent No. 2 / Education Officer (Secondary), Zilla Parishad, Raigad-Alibag, who is common in both petitions.

3. By impugned Order in Writ Petition No. 1039 of 2020, the approval to Petitioner's promotion as Senior Clerk is rejected. By impugned Order in Writ Petition No. 9999 of 2024, the approval for appointment of Petitioner as Junior Clerk is rejected.

4. Perused the impugned Orders, which are admittedly passed without any show cause notice / hearing to the Petitioners / Respondent Education Institute. Had an opportunity been given, the Petitioners / Respondent Education Institute would have given appropriate and necessary explanation to reasons stated in impugned orders for rejecting proposals. It has resulted in a situation where inquiry about the grounds of rejection are required to be done first time in this Court.

5. Learned Senior Advocate for the Petitioners pointed out that the Government Resolutions (GRs) of 2017 based on which the reasons are stated in impugned orders, are all issued after the relevant date of promotion/appointment. He submitted that the Petitioner in Writ Petition No. 1039 of 2020 was promoted as Senior Clerk in August 2011 and the Petitioner in Writ Petition No. 9999 of 2024 was appointed as Junior Clerk in January 2012. He therefore submitted that the GRs referred in the impugned orders cannot be applied for rejecting the

proposals.

6. In that view of the matter, we dispose of these Petitions by directing that the impugned orders dated 26 September 2017 will be treated as notice to Respondent Education Institute of the proposed ground/s of rejection of Petitioners' proposals, which stand restored. If there are any other grounds on which the Respondent Education Officer intends to return or reject the proposals, he is directed to communicate the same to the Respondent Education Institute within a period of 3 weeks from today.

7. The Respondent Education Institute shall thereafter submit explanation/s to the proposed grounds, along with supporting material including GRs, case laws / orders of this Court etc. if relied upon.

8. The Respondent Education Officer is directed to decide the proposals of Petitioner No. 3 thereafter within a period of 8 weeks, by dealing with above argument of Petitioners about applicability of GRs of 2017 as also other explanation given by the Educational Institute and dealing with case law/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.

9. We have not expressed any opinion on the Petitioners' proposals and the same shall be decided on their own merits in accordance with law. Needless to mention that if the Respondent Education Officer proceeds to grant proposals as prayed, consequent benefits and orders will follow.

10. The writ petitions are disposed of in the aforesaid terms.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)