

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6751 OF 2024

Ganesh Devaji Mulye

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Prashant Bhavake, for Petitioner.

Mr. Utkarsh Desai for Respondent Nos. 6 and 7.

Mr. S.B. Kalel, AGP for Respondent Nos. 1 to 5.

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**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. 7- School and Junior College run by Respondent No. 6- Management, has filed this petition challenging the order dated 20 January 2023 passed by Respondent No. 5-Education Officer (Secondary), Zilla Parishad, Ratnagiri. By the said impugned order, Education Officer has rejected the approval for appointment of Petitioner as Shikshan Sevak, relying on Government Resolution (GR) dated 10 June 2022 and stating that the proposal was submitted later than three months and therefore it is being rejected. There is no other reason in the

impugned order. Learned counsel for the Respondent Nos. 6 and 7 / Management states that they are supporting the cause of the Petitioner.

3. Learned counsel for the Petitioner has relied upon an order of this Court dated 9 January 2024 passed in Writ Petition No. 116 of 2024 (*Chiplun Education Society & Ors. V. The State of Maharashtra and Ors.*) in support of his case.

4. Government Resolution dated 10 June 2022 is on record. It refers to improving procedure for granting approval and inclusion of data in the centralized portal. In clause 1.4 methodology in respect of the appointments made prior to GR and for those whose approval is not granted till date of the GR is laid down. This stipulates that the proposal needs to be submitted within a period of three months.

5. Learned counsel for the Petitioner states that there are justifiable reasons as to why and how limit of three months was crossed. This is a factual aspect. Learned counsel for Petitioner is right in contending that if this stipulation was to be put against the Petitioner, had the Petitioner/Respondent Management been given an opportunity, this fact would have been explained. Also it is his contention that this clause 1.4 does not apply. Further there is no decision on merits of the proposal for approval.

6. The order relied upon by the Petitioner is passed in identical

situation and hence covers this case.

7. Prima facie, perusal of the said Government Resolution would indicate that such proposals should be submitted within a period of three months otherwise grant of approval would relate back burdening the exchequer and therefore a time limit is provided for. If that be the interpretation of the Government Resolution, suitable orders can be passed in respect of the delay exceeding three months. Since this aspect has not been considered and also decision is not taken on merits, we dispose of the Writ Petition as under.

(A) The impugned order shall be treated as a show cause notice to the Petitioner / Respondent Nos. 6 & 7 (Management) and not a rejection order. The affidavit filed on behalf of Education Officer shall be treated as *prima facie* opinion.

(B) Respondent-Education Officer, within a period of three weeks will communicate grounds of objections, if any, in respect of the proposal on merits.

(C) Upon receipt of the same, Petitioner/Respondent Management will submit explanation to the earlier order (now show cause notice) and additional grounds, if any.

(D) After submission of the explanation, the Education Officer to take appropriate decision within a period of eight weeks giving reasons, subject to earlier time bound directions. In case

Petitioner is to be granted the approval, further consequential steps be taken as per law.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)