

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12246 OF 2024

The New Education Society and Ors. ...Petitioners
Versus
The State of Maharashtra and Ors. ...Respondents

Mr. Prashant Bhavake for the Petitioners.
Mr. S.B. Kalel, AGP for Respondent/State.

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

DATE : 6 SEPTEMBER 2024

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P.C. :

. Heard learned counsel for the parties.

2. Petitioner No. 3 (Yuvraj Laxman Tipugade) Employee working with Petitioner No. 2 High School run by Petitioner No. 1 Education Institute are jointly challenging the order dated 3 April 2023 passed by Respondent No. 5 / Education Officer (Secondary), Zilla Parishad, Kolhapur. By the said impugned Order, approval to appointment of Petitioner No. 3 as Peon is rejected.

3. Perused the impugned order which is admittedly passed without issuing show cause or hearing the Petitioners. Had an

opportunity been given, the Petitioners would have given appropriate and necessary explanation to reasons stated in impugned order for rejecting proposal. It has resulted in a situation where inquiry about the factual grounds of rejection are required to be done first time in this Court.

4. In that view of the matter, we dispose of this petition by directing that the impugned order dated 3 April 2023 will be treated as notice to Petitioners of the proposed ground/s for rejection of Petitioner No. 3'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 Petitioners within a period of 3 weeks from today.

5. The Petitioners 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.

6. Thereafter within a period of 8 weeks, subject to other time bound directions, the Respondent Education Officer is directed to decide the Petitioner No. 3's proposal 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. The order will be passed keeping in mind the directions issued by this Court in Part II Clause A(i) to (iii) of the judgment in the matter of *Nitin B.*

Tadge Vs. State of Maharashtra ¹.

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 proposal as prayed, consequent benefits and orders will follow.

8. If the decision is adverse to the Petitioners, it will be challenged before the Appellate Authority recently provided under Government Resolution dated 27 March 2024.

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

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)

¹ 2024 SCC OnLine Bom 1116