



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.8107 OF 2023

Akash s/o Atmaram Gaikwad, aged
about 24 years, Occu. Service, Ward
No.3, R/o Chikhali, Tq. Chikhali, Dist.
Buldhana.

... PETITIONER

VERSUS

1. The State of Maharashtra, through
its Secretary, Department of School
Education, Mantralaya, Mumbai –
32.
2. The Education Officer (Secondary)
Zilla Parishad, Buldhana.
3. Sahakar Maharshi Bhaskarraoji
Shingne Pratisthan, Sundarkhed,
District Buldhana, through its
President.
4. Rajmata Jijau Girls' Military School
and Junior College, Chandhai, Tq.
Chikhali, District Buldhana, through
its Head Mistress.

... RESPONDENTS

Shri G.G. Mishra, Advocate for the petitioner.
Shri Fulzele, Addl.G.P for the State.
Shri P.B. Patil, Advocate for respondent nos. 3 and 4.

CORAM : VINAY JOSHI AND M.W. CHANDWANI, JJ.
DATED : 29.07.2024.

JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the parties.

3. The petitioner was appointed on 10.07.2015 in the OBC category on the post of Peon by following regular process. The Management has forwarded a proposal for approval to respondent no.2 Education Officer (Secondary), Zilla Parishad, Buldhana. Certain deficiencies were pointed out, which have been cured. However, the approval has been rejected on two grounds based on Government Resolution ('GR') dated 12.02.2015 and 04.10.2017. The GR dated 12.02.2015 pertains to ban on recruitment whilst GR dated 04.10.2017 relates to absorption of surplus teachers.

4. The learned Counsel for the petitioner has pointed out that GR dated 04.10.2017 pertains to the teaching staff only, whilst the petitioner was appointed as a peon, thus, it does not apply. As regards to the ban on recruitment is concerned, the petitioner has

relied on the decision of this Court in the case of *Arun Thute Lokvikas Pratishthan, Hinganghat and ors. vs. State of Maharashtra and ors. 2023(5) Mh.L.J. 223*, wherein it has been clarified that if the recruitment process is initiated prior to the issuance Government Resolution then ban would not apply. It is evident that the recruitment process was initiated much earlier by issuance of an Advertisement in the month of December, 2014 and then was continued. Thus, both reasons does not survive. Though it has been stated that the recruitment was not concluded within three months, however the said reason cannot be supplemented.

5. In view of the above, we are of the view that impugned order of rejection of approval does not sustain in the eyes of law. Hence the following order :

- (a) The Writ Petition is allowed
- (b) We hereby quash and set aside the impugned order dated 06.11.2018 passed by the respondent no.2 Education Officer, Z.P. Buldhana.
- (c) We direct the respondent no.2 Education Officer (Secondary) Zilla Parishad, Buldhana to grant approval to

the appointment of petitioner within six weeks from today.

6. The Writ Petition stands disposed of in above terms.
7. Rule is made absolute accordingly. No costs.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

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