



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

WRIT PETITION NO.1245 OF 2024

Ku. Archana d/o Uttamrao Pathade (Now Sou. Archana w/o Onkar Kadawe), Tah. Karanja
(Ghadge), Dist. Wardha

-vs-

State of Maharashtra, Thr. Secretary, Dept. of Secondary & Higher Secondary Education,
Mantralaya, Mumbai and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and the Registrar's orders.

Court's or Judge's Orders.

Shri A. Z. Jibhkate, Advocate for petitioner.
Ms N. P. Mehta, Additional Government Pleader for respondent Nos.1 to 3.
Shri C. B. Dharmadhikari, Advocate for respondent No.4.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : July 30, 2024

1. We have perused the prayer for quashing and setting aside the impugned order dated 29/01/2024 passed by respondent No.2- Education Officer whereby the proposal for grant of approval to the appointment of the petitioner came to be rejected on the ground that advertisement and the appointments were carried out without permission of the office of Education Officer.

2. Amongst other grounds which are raised by the petitioner are two teachers were granted approval by the Education Officer who were appointed through the very same advertisement against which the petitioner was appointed. Based on the aforesaid conduct of the Education Officer, in Writ Petition No.1158/2020 (*Mangesh Santoshrao Bodkhe and anr. vs. The State of Maharashtra and ors.*) this Court has directed grant of approval in favour of the petitioners therein viz. Shri Mangesh S. Bodkhe and Shri Umesh V. Renghe.

3. The affidavit sworn by the Education Officer particularly paragraphs 4 and 5 read thus :

4. *It is submitted that, the President of Respondent No.4 Society has appointed the petitioner, Ku. Archana Uttamrao Pathade having qualification H.S.C. D.Ed., vide order dated 18.07.2011 at Navprabhat Vidya Mandir & Junior College, Thanegaon, Tq. Karanja, Dist. Wardha as 'Middle School Shikshan Sevak' w.e.f. 18.07.2011 for three years. After appointing the petitioner, the Headmaster, Navprabhat Vidya Mandir & Junior College, Thanegaon, Tq. Karanja, District : Wardha Submitted the proposal for grant of approval to the appointment of petitioner vide letter dated 12.08.2013 to the office of answering respondent.*

5. *It is submitted that, during the course of scrutiny of proposal submitted by the Navprabhat Vidya Mandir & Junior College, Thanegaon, Tq. Karanja, District : Wardha, the office of the answering respondent observed that :*

A} the Respondent No.4 had published advertisement in Daily News Paper "Dainik Lokmat" dated 25.06.2011 to fill up in all eight vacant posts of 'Shikshan Sevak', without obtaining prior approval from the answering respondent.

B} the Respondent No.4 without obtaining prior permission from the answering respondent, at our own risk, issued appointment order dated 18.07.2011 as 'Shikshan Sevak' to the eight candidates, in which petitioner is also appointed as 'Shikshan Sevak' by the Respondent No.4.

C} the Respondent No.4 & Schools without taking prior permission from the answering respondent for publishing the advertisement to recruit the 'Shikshan Sevak' on vacant posts and issued appointment orders to the 'Shikshan Sevak', instead of this illegality submitted the proposal before the answering respondent for grant of approval to the appointment of petitioner.

In view of the aforesaid observations, the answering respondent has issued the letter dated 29.06.2011 to the Respondent No.4 and directed to submit the explanation on the points that, without taking prior permission of the answering respondent how they published an advertisement regarding to recruitment of eight 'Shikshan Sevak' in their schools for various subjects.

In response to the letter dated 29.06.2011 the Respondent No.4 till this date has not submitted any explanation and now the petitioner is not working with any school run by the Respondent No.4."

4. As such what can be noticed is the then Education Officer has granted approval without adhering to the legal procedure of getting no objection from the office of the Education Officer to advertise the posts so as to ensure that no surplus teachers were available to be accommodated.

5. It appears that the then Education Officer for the reasons best known to him has granted approval to the appointment of two teachers which is found to be the base for allowing Writ Petition No.1158/2020.

6. That being so, issue notice to the petitioners in Writ Petition No.1158/2020 as to why the order dated 24/07/2023 shall not be recalled and the order granting approval to their appointment be withdrawn. Notice is made returnable on 20/08/2024.

7. We further direct the Deputy Director of Education, Nagpur to conduct an enquiry in the matter of grant of approval to the appointment of two teachers though before issuing appointment orders, permission from the office of the Education Officer was not obtained.

8. The Deputy Director of Education shall also submit his response to the aforesaid by 20/08/2024 by disclosing the name of the Education Officer who has granted approval illegally.

9. The learned Additional Government Pleader to communicate this order to the Deputy Director of Education and to the Education Officer accordingly.

10. Stand over to 20/08/2024.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)