

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10383 OF 2022

Yashwant Education Society Through Its Honorary Secretary Ramesh
Laxmanrao Langore

VERSUS

The State Of Maharashtra Through The Secretary And Others

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Advocate for the Petitioner : Mr. More Abhijit S.

AGP for Respondent/State : Mr. D.R. Korade

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**CORAM : S.G. MEHARE &
SHAILESH P. BRAHME, JJ.**

DATED : JANUARY 06, 2025

PER COURT :

1. Heard learned counsel for the petitioner and learned AGP for the State.
2. The petitioner/education society has impugned the order dated 02.09.2022 rejecting the proposal for the appointment of the post of Junior Clerk on various grounds.
3. Learned counsel for the petitioner would submit that reason nos.1, 2 and 4 are identical. This Court by catena of judgments has held that the approval cannot be rejected on the ground of Government Resolution dated 04.05.2020, if appointment is before the said resolution. The legal position is undisputed. However, the contesting respondents in affidavit in reply in para 4 has raised the ground that along with the proposal, the petitioner society did not provide the roster for the period in question.

4. Learned AGP would submit that ground no.5 would cover this objection also.

5. Learned counsel for the petitioner would submit that there was no specific reason for rejecting the proposal in the impugned order as such. He would submit that the petitioner/management has tried to submit the roster. However, he did not produce any cogent and reliable material to believe that the management has tried to submit the roster nor there is any specific pleading in the writ petition to that effect. Therefore, we do not accept such explanation.

6. Learned counsel for the petitioner would submit that by way of Government Resolution dated 28.01.2019, government aided or unaided schools for such schools, the amended roster was applied. The posts were advertised on 17.07.2019. Apparently, the advertisement was after the Government Resolution dated 28.01.2019. It was the duty of the management to submit the roster before the posts were advertised. In the absence of pleading, we have some reservations about the submissions that the Education Department did not receive the roster submitted by the management.

7. So far as the publication of the advertisement in the highly circulated newspaper is concerned, learned counsel for the petitioner has placed on record circular of the government dated 26.09.2023, wherein for the first time it has been directed to all the

management to advertise the post in one of the newspaper at district level. The government is taking steps to make the appointment transparent by issuing directions and passing the government resolution.

8. After having gone through the facts of the case particularly about the non-submission of the roster before the post was advertised, we are of the view that the petition should not be allowed wholly and the proposal cannot be approved. However, to protect the interest of justice, we allow this petition partly by quashing and setting aside ground nos.1 to 4 in the impugned order and relegate the matter to the Education Officer (Secondary), Zilla Parishad, Ahmednagar for considering the proposal afresh after complying with all necessary requirements by the management on its merit.

9. The petitioner/management should submit the proposal afresh with full compliance of the legal requirements at the earliest. Then the Education Officer (Secondary), Zilla Parishad, Ahmednagar should scrutinize the proposals within four weeks and communicate his decision to the management.

(SHAILESH P. BRAHME, J.)

(S.G. MEHARE, J.)