



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12798 OF 2025

Avinash Kamdev Sherkhane

VERSUS

The State Of Maharashtra Through Its Principal Secretary And Others

Mr. T. M. Venjane, Advocate for petitioner

Mr. R. B. Dhaware, AGP for respondent-State

**CORAM : Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**

DATE : 25th November, 2025

PER COURT :-

1. Issue notice to respondents.
2. Learned AGP waives notice for all respondents. He submits the affidavit of respondent No. 4 which is taken on record.
3. It appears that the respondents are relying on the communication dated 28.05.2025 which is stated to be based on Government Resolution dated 04.04.2025. As per the petitioner, he came to be appointed in view of advertisement that was given on 25.02.2024 and the appointment order was on the clear sanctioned post of Lab Assistant. He was given an appointment order on 10.03.2024 and he resume his duty on 11.03.2024. In order to show that there was a clear vacancy, the petitioner has supplied the copy of *Sanch Manyata* of the

year 2018-2019 as well as 2023-2024. We are not aware as to whether along with the proposal that was sent by the Educational Institution these *Sanch Manyata* was given or not in respect of the year 2023-2024. Impugned communication dated 26.06.2025 states that the document that was annexed was of *Sanch Manyata* 2018-2019. It is also not clear as to whether along with the proposal, the document regarding permission for filling up the post of Lab Assistant was taken prior to 25.02.2024 or not by the Educational Institution. The Educational Institution is not party before this Court. Now the question would be for appointment that was made prior to Government Resolution dated 04.04.2025 whether the said Government Resolution can be made applicable. In other words, whether Government Resolution dated 04.04.2025 can be made applicable retrospectively is a question. If all the documents necessary for seeking approval were filed then it ought to have been then considered.

4. In the affidavit-in-reply, the Deputy Education Officer (Secondary), Zilla Parishad, Latur has reiterated the same stand that has been taken in letter dated 28.05.2025 and 26.06.2025.

5. Certainly, we are of the opinion that a Government Resolution cannot be acted retrospectively unless there is specific stipulation for the same and if the appointment is as per the procedure and against a clear

vacancy then it should be considered. We therefore, set aside the order dated 26.06.2025 and direct the respondent No. 4 to get a fresh proposal from the Educational Institution within a period of one month, scrutinize it and decide within further two months.

6. Writ petition stands disposed of.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi