

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9992 OF 2022

Nilesh Rajendra Potdar] Petitioner

versus

The State of Maharashtra and others] Respondents

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Mr. Prashant Bhavake, for Petitioner.

Mr. A.P. Vanarase, A.G.P, for Respondent Nos.1 to 5 – State.

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CORAM : M.S. KARNIK &
AJIT B. KADETHANKAR, JJ.

DATE : 2nd DECEMBER, 2025.

ORAL ORDER [PER M.S. KARNIK, J.]:

1. Heard learned Counsel for the petitioner and the learned A.G.P, for respondent – State.
2. Learned A.G.P supported the impugned order.
3. By the impugned order dated 28th May, 2020, proposal (“Exhibit G Colly”) submitted by respondent No. 6 – Shri Radhanagari Taluka Shikshan Prasarak Mandal (for short “Management”) and respondent No.7 –

Radhanagari Vidyalaya Va Uccha Madhyamik Vidyalaya (for short “School”) for individual approval to the appointment of the petitioner on the post of “Peon” is rejected on several grounds mentioned therein. The same was done without giving any opportunity to the petitioner as well as Management to cure the deficiencies. In our opinion, such an opportunity was necessary, as the Management could then have cured/expained the deficiencies.

4. So far as deficiency No.1 is concerned, the proposal was rejected on the ground that the Staffing Pattern has not been revised in terms of the Government Resolution dated 28th January, 2019 for transferring the employees. In this regard, it is pertinent to note that the petitioner was appointed on 30th August, 2018 due to retirement of Class IV employee viz: Shashikant Palkar on superannuation. Thus, vacancy in the post of Peon from open category was created in respondent No.7 – School run by respondent No.6 – Management. Copy of the Roster of respondent No.7 - School was verified by the B.C. Cell.

5. In paragraph 3 of the petition, it is stated that before making the appointment, the representative of respondent No.6 – Management had approached the office of respondent No.5 – Education Officer to ascertain whether any suitable candidate/s were available for the said post of Peon. It is thereafter that the vacant post was filled up. The appointment of the petitioner was made on 30th August, 2018 i.e prior to the Government Resolution of 28th

January, 2019. Thus, the appointment of the petitioner was in terms of the Staffing Pattern as it then existed. We find that the impugned order is not passed on the ground that the procedure is not followed to fill up the vacant post of Peon which had arisen on the retirement of the Class IV employee in which post the petitioner was appointed. We, therefore, find that the proposal for grant of individual approval could not have been rejected on ground No.1 of the impugned order.

6. From Item No.6 of the impugned order dated 28th May, 2020, we find that one of the reasons for rejection of the approval was that there is no approval for the revised Staffing Pattern on the basis of the Government Resolution dated 28th January, 2019. The Education Officer, therefore, felt that the proposal for approval cannot be considered presently. For the aforesaid reasons, the proposal for approval of the appointment of the petitioner in the post of Peon could not have been rejected on the grounds as mentioned in Item Nos.1 and 6 of the impugned order dated 28th May, 2020. To that extent, the impugned order is set aside.

7. So far as the remaining deficiencies are concerned, the same could be treated as a Show Cause Notice to respondent No.6 – Management. The respondent No.6 – Management to explain the deficiencies from Item Nos. 2 to 5 as mentioned in the impugned order and the said deficiencies be cured by the Management within a period of three weeks. After considering the

explanation so received, respondent No.5 - Education Officer (Secondary), Zilla Parishad, Kolhapur to decide the proposal afresh on its own merits and in accordance with law, within a period of twelve weeks from the date of communication of this order. If individual approval is granted, Shalarth ID be issued by the Deputy Director expeditiously.

8. The petition is disposed of in the aforesaid terms. No order as to costs.

[AJIT B. KADETHANKAR, J.]

[M.S. KARNIK, J.]