

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8381 OF 2022

- | | | | |
|----|-----------------------------------|---|-----------------|
| 1. | Jitendra Gautam Kadam |] | |
| | Aged 33 years, Occ. Service, |] | |
| | R/o. Devrukh, Tal. Sangameshwar, |] | |
| | District Ratnagiri – 415 804. |] | |
| 2. | Devrukh Shikshan Prasarak Mandal, |] | |
| | Devrukh, Tal. Sangameshwar, |] | |
| | District Ratnagiri, |] | |
| | Through its Chairman / Secretary. |] | ... Petitioners |

Versus

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|----|-----------------------------------|---|-----------------|
| 1. | The State of Maharashtra |] | |
| | Through the Secretary, |] | |
| | School Education Department, |] | |
| | Mantralaya, Mumbai – 400 032. |] | |
| 2. | The Education Officer (Secondary) |] | |
| | Zilla Parishad, Ratnagiri. |] | |
| 3. | The Deputy Director of Education |] | |
| | Kolhapur Region, Kolhapur. |] | ... Respondents |

Mr. Sagar Mane a/w. Mr. Rushikesh Jagdale for the Petitioners.
Mr. R.P. Kadam, 'B' Panel Counsel, A.G.P. for the Respondents-State.

Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.

Date : 20th November 2025.

ORAL JUDGMENT (Per : M. S. Karnik, J.)

1. Heard learned counsel for the parties.
2. The Petitioners prays for the following substantive reliefs :-

“b) By a suitable writ, order or direction, this Hon'ble Court may be pleased to quash and set aside the impugned order dated 23.5.2022 issued by the Respondent No. 2, and accordingly the Respondent No. 2 may be directed to grant approval to the appointment of the Petitioner No. 1 as a Lab. Assistant on monthly honorarium basis from 16.3.2015 to 15.3.2018 and to release the grant-in-aid for payment of monthly honorarium for the said period of 3 years, and thereafter to grant further approval to the Petitioner No. 1 as the full time regular Lab. Assistant in pay scale w.e.f. 16.3.2018 and to release the grant-in-aid for payment of monthly salary in pay scale from the said date, together with all arrears.

c) After the approval would be granted as per the prayer clause (b) above, that by a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent No. 3 to grant permission to enter the name of the Petitioner No. 1 in Shalartha Pranali and to allot him Shalartha I.D. as Lab. Assistant in the aided Secondary School of the Petitioner No. 2 by name New English School, Devrukh, Tal. Sangameshwar, Dist. Ratnagiri, with all consequential benefits.”

3. The facts of the case in brief are :

The Petitioner No.1 has passed 12th standard. The Petitioner No.1 claims to be eligible to be appointed as 'Lab. Assistant'. The Petitioner No.2 is the Management which runs one fully aided school having classes from standard 5th to 12th. On 30th September 2014, one Shri Chandramani J. Kadam, who was working as Lab. Assistant retired from service. The Headmaster of the said School sought permission to make the appointment to the post of Lab. Assistant from the Respondent No.2- The Education Officer (Secondary), Zilla Parishad, Ratnagiri, vide the communications dated 6th October 2014, 30th December 2014 and 21st December 2015, but there was no response. An advertisement was therefore issued in the Daily Newspaper, namely, "Daily Ratnagiri Express" on 15th February 2015. The selection process was conducted and the Petitioner No.1 was appointed as Lab. Assistant on 16th March 2015. The Headmaster submitted proposal for approval on 2nd April 2015, but the same was not decided. The Petitioner No.1 continued in the said post even after completion of three years. The Petitioner No.2 submitted a proposal to the Respondent No.2 seeking approval for the regular appointment of the Petitioner No.1. The Respondent No.2 rejected the proposal on 23rd May 2022.

4. We have perused the impugned order passed by the Respondent No.2. In the said order it is stated that in term of the G.R. dated 7th March 2019, no instructions / orders has been received from the State Government as regard what should be the procedure to be followed in respect of the posts which have lapsed or are surplus. It is therefore that the approval to the individual appointment of the Petitioner No.1 was rejected.

5. Learned AG.P argued in support of the impugned order. It is submitted that the Circular dated 7th March 2019 is very clear, in as much as, in the revised staffing pattern additional parameters have been provided for in respect of various posts, and specific instructions to that effect are awaited from the State Government. It is therefore submitted that the approval came to be rejected.

6. We find that the Petitioner No.1 was appointed on 16th March 2015 after issuance of an advertisement. In fact the Headmaster of the school had informed the Respondent No.2 about the vacant post being available to which there was no response and therefore the Management had no other option but to fill up the post in the interest of the institution.

7. It is significant to note that the Respondent No.2-Education Officer, while rejecting the proposal relied upon G.R. dated 7th March 2019. The appointment of the Petitioner No.1 is of the year 2015. The said G.R.

could not have been made retrospectively applicable as done by the Respondent No.2-Education Officer.

8. Further it is necessary to note that so far as the post of Lab. Assistant is concerned, the staffing pattern of the year 2018-2019 clearly indicates that there is one sanctioned post of Lab. Assistant in the said school. In such view of the matter, the Petitioner No.1 was appointed as against the said sanctioned post, which became vacant consequent to the retirement of Shri Chandramani Janu Kadam. The approval has been rejected on completely erroneous premise by giving a retrospective effect to the G.R. dated 7th March 2019 and hence, the impugned order called for interference.

9. The impugned order is quashed and set-aside. Petition is allowed in terms of prayer clauses (b) & (c).

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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