

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15765 OF 2024

Shri Vinayak Maruti Naik]
Age 34 years, Occupation Service,]
R/o. A/P Kowad, Desai Galli, Kowad,]
Taluka : Chandgad, District : Kolhapur.] ... Petitioner

Versus

1. The State of Maharashtra]
Through the Secretary,]
School Education and Sports]
Department, Mantralaya,]
Mumbai – 400 032.]
2. The Commissioner of Education]
School Education Department,]
Maharashtra State, Pune.]
3. The Director of Education]
(Secondary and Higher Secondary),]
Maharashtra State, Pune-1.]
4. The Deputy Director of Education]
Kolhapur Region, Kolhapur,]
Having office at Hatti Mahal, Ganji Galli,]
Somwar Peth, Kolhapur.]

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| 5. | The Education Officer (Secondary) |] | |
| | Zilla Parishad, Kolhapur, |] | |
| | Having Office at Zilla Parishad Building, |] | |
| | Sindhudurg. |] | |
| 6. | The Kini Karyat Shikshan Mandal, |] | |
| | Kovad, Taluka : Chandgad, |] | |
| | District : Kolhapur, |] | |
| | Through its President / Secretary. |] | |
| 7. | Shri Ram Vidyalaya, Kovad, |] | |
| | Taluka : Chandgad, District Kolhapur, |] | |
| | Through its Head Master. |] | ... Respondents |

Mr. Prashant Bhavake for the Petitioner.

Ms. T.J. Kapre, A.G.P. for the Respondent Nos.1 to 5-State.

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

Date : 17th December 2025.

ORAL JUDGMENT (Per : Ajit B. Kadethankar, J.)

1. The Petitioner holds qualification of HSC and belongs to VJNT category.
2. Mr. Bhavake, learned counsel for the Petitioner submits that due to the upgradation of one peon namely Mr. R.A. Tarwal in the post of Laboratory Assistant, a vacancy to the post of Peon was created in the Respondent No.7-Secondary School.

2.1 The Respondent No.6-Management approached the Education Officer to ascertain whether any suitable surplus Peon was available for absorption on the said vacant post. It is the contention of the Petitioner that no such suitable candidate was made available from the Office of the Education Officer and therefore the Management was constrained to issue advertisement seeking suitable candidate to be appointed on the subject matter post.

3. Mr. Bhavake, learned counsel, would submit that the Petitioner accordingly applied for the subject post and after due process, was appointed to the subject matter post.

4. It appears that on 23rd May 2023 the Management forwarded a proposal to the Education Officer seeking approval to the appointment of the Petitioner, however vide Order dated 31st May 2025 the Education Officer without giving any opportunity of hearing to the Management as well as to the Petitioner, directly rejected the proposal citing as many as 8 grounds.

5. Mr. Bhavake, learned counsel would submit that the Ground Nos.1 to 5 of the impugned rejection Order are relating to non production of certain documents. If an opportunity is given to the Petitioner and the Management, they can certainly submit the same.

6. Mr. Bhavake, learned counsel would further submit that insofar as Ground Nos. 6 to 8 of the impugned rejection Order are concerned, all the objections raised therein now stand settled by this Court by various orders and as such, none of those objections can be sustained in the eyes of law.

7. In view thereof, learned counsel for the Petitioner submits that if the Petitioner is relegated back to the Education Officer with an opportunity of hearing to substantiate the claim proposal, the purpose of the Petitioner would be served.

8. Ms. Kapre, learned A.G.P submits that the Education Officer shall deal with the proposal by giving an opportunity to the School Management as also to the Petitioner.

9. In view of this, we dispose of the Petition with directions to the Education Officer to give an opportunity of hearing to the Petitioner and School Management to substantiate the proposal dated 23rd May 2023 and to give justification and explanation to the objections raised in the Order dated 31st May 2023. For that, the Order dated 31st May 2023 be treated as Show Cause Notice to the Petitioner and the School Management. The Education Officer shall complete this exercise within eight weeks from the date of production of this Order's copy.

10. Suffice to note the Ground Nos.6 to 8 in the impugned rejection Order need to be dealt with by the Education Officer in the light of the law laid down by this Court as also the observations made by this Court in a number of Petitions. We accept the contention of Mr. Bhavake, learned counsel for the Petitioner that once this Court on numerous occasions has explained the effect, scope and limitations of the Government Resolutions dated 10th June 2010, 16th July 2011, 23rd October 2013, 12th February 2015, 28th January 2019, 11th December 2020 and 10th June 2022, the Education Officer is obliged to consider those observations and directions given by this Court meaningfully. His further contention that once the law is laid down by this Court, the Authorities are absolutely not justified in raising the same objections every now and then. We have no reason to discard this submission of Mr. Bhavake, learned counsel for the Petitioner.

10.1 It is true that the Authorities i.e. the Education Officer, Deputy Director of Education and such other Authorities are expected always to bear in mind the law laid down by this Court particularly on the application of the Government Resolutions, which are repeatedly referred by such Authorities to discard the approval proposal(s).

10.2 The Authorities, are no doubt empowered and under obligation to check the factual aspect of every proposal. However, when a proposal is rejected referring to certain Government Resolutions, as is in the present case, it is obligatory on the part of such Authorities to give due weightage to the law laid down by this Court and to decide the proposal(s) accordingly. Adjudication of a proposal for an approval must not be done in a mechanical way merely by referring to the various Government Resolutions, instead of pragmatically applying the law laid down by this Court and observations made from time to time. Such a mechanical practice of merely referring the Government Resolutions without ascertaining and looking into the law that is developed on such Government Resolutions, not only gives birth to an unnecessary litigation and harassment of the employee(s) but also invites serious consequences of disobedience to the Order(s) passed by this Court. This constitutes disregard to the observations made by this Court in respect of the applicability, scope and limitations of the Government Resolutions on which the Authorities relied upon.

10.3 In view of the above, we direct the Education Officer to record categorical, clear and specific findings on the submissions and explanations tendered by the Petitioner in respect of Ground Nos. 6 to 8, with due reference to judgments and orders relied upon by the Petitioner.

11. We make it clear that we have not gone into the merits of the case.
12. All contentions are kept open.
13. Needless to mention, if the approval is granted by the Education Officer, the Deputy Director shall grant Shalarth I.D. to the Petitioner.
14. Petition is disposed of in the aforesaid terms.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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