

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 14024 OF 2024

Ashok Shiodhan Chandak. ... Petitioner

Versus

The State of Maharashtra & Anr. ... Respondents.

Mr. Yuvraj Narvankar a/w. Ms. Raufa Shaikh, for the Petitioner.

Mr. V.M. Mali, AGP for Respondent/State.

Ms. Neha Wadekar, for Respondent No. 2.

**CORAM : M.S. KARNIK &
ASHWIN D. BHOBE, JJ.**

DATE : 19th MARCH, 2025

P.C. :

1. Heard the learned Counsel for the Petitioner Mr. Narvankar, Ms. Neha Wadekar, learned Counsel for the Respondent No. 2 and Mr. Mali, learned AGP for State.

2. The Petitioner was working as the Head of the Department of the Respondent No. 2 Modern Education Society, Pune, in one of the colleges. Being the senior most head of the department, the Petitioner

was appointed as In-charge Principal on 4th August, 2022. According to the Petitioner, on 2/12/2022 he was appointed as Principal on a regular basis by promotion being senior most staff member, then working as the Head of the Department. In fact, the Minutes of Meeting of the Governing Council held on 23rd February, 2024, page 41 of the paper book at paragraph-4 makes a mention that the Petitioner has been appointed as the regular Principal at Cusrow Wadia Institute of Technology, Pune by the Managing Council of the Respondent No. 2 Modern Education Society through promotion and this appointment has been officially approved. By the impugned orders dated 22/8/2024 and 28/8/2024, the Director, Technical Education, Mumbai and Co-Director of Technical Education, Pune, Maharashtra refused to grant approval to the appointment of the Petitioner as a Principal on the ground that the Respondent No. 2 has appointed the Petitioner in breach of the procedure stipulated by the G.R. dated 10th September, 2012 (page 45 of the paper book).

3. The learned Counsel for the Petitioner submitted that the G.R. dated 10/9/2012 applies only to Government Colleges and not to private institutes like the Respondent No. 2 which is receiving aid from the Government. The affidavit in reply filed by the Respondent No. 1

makes a reference to the communication dated 27.11.2024, which records that the order dated 22/8/2024 be treated as cancelled. The reason mentioned in the communication dated 27/11/2024 is that in view of the stand taken before the Hon'ble Supreme Court by the Respondents, the same stand needs to be taken in the present Petition as well. The stand taken before the Hon'ble Supreme Court was that the G.R. dated 10/9/2012 applies only to Government Colleges and does not apply to private colleges like the Respondent No. 2 Society. In this view of the matter, the Petition deserves to be allowed in terms of the prayer clause (a), having regard to the stand taken by the Respondent No. 1 in the affidavit in reply filed by them in this Court.

4. A subsequent development has been placed on record by the learned Counsel for the Petitioner. It is pointed out that by communication dated 11th March, 2025, the Department of Technical Education, Pune Division has informed the Respondent No. 2 that they have committed serious breach of the Rules as the Petitioner has been given additional charge of a Principal even though he has attained the age of superannuation with effect from 30th November, 2024. It is further mentioned in the said letter that the post of Principal should be filled up only on the basis of seniority as the Petitioner stands retired. It is further

mentioned in the communication that if the directions in this communication dated 11th March, 2025 are not complied with, serious action will be taken against the Respondent No. 2. Prima facie, we are of the opinion that such a communication dated 11th March, 2025 is directly in the teeth of the Minutes of the Meeting of Governing Council held on 23/2/2024, which indicates that the Petitioner was promoted as a Principal prior to his attaining the age of superannuation as Head of the Department on 30/11/2024. Once the Petitioner is appointed as a Principal, the age of superannuation is extended by two years. Probably these materials were not before the Joint Director of Technical Education Department, Pune when the Order dated 11th March, 2025 came to be passed.

5. In this view of the matter, we find it appropriate that the communication dated 11th March, 2025 addressed by the Technical Education Department be treated as a show cause notice to the Respondent No. 2 and the Petitioner. The Petitioner as well as Respondent No. 2 should present themselves before the Joint Director, Technical Education Department on 3rd April, 2025 at 11 a.m.. The Petitioner as well as the Respondent No. 2 may be given an opportunity of hearing on the said show cause notice and after hearing them and

perusing the material on record, which they may submit in support of their stand, appropriate orders be passed by the Joint Director in accordance with law. In the facts of the present case, we find it appropriate to direct that if the order is adverse to the Petitioner, the same shall not be give effect for a period of 4 weeks.

6. The Petition is disposed of on the above terms. No costs.

(ASHWIN D. BHOBE, J.)

(M.S. KARNIK, J)