



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 6539 OF 2024

Sheikh Anwar Sheikh Habib

Versus

The State of Maharashtra through its Secretary, the Department of School Education and Sports and Department of Rural Development and Water Conservation, and General Administration Department, Mantralaya, Mumbai-32 and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Vishal Anand, Advocate for the petitioner.

Shri A.M.Joshi, AGP for the respondent/State.

Shri K.P.Mahalle, Advocate for the respondent no.5.

**CORAM : SMT. M.S.JAWALKAR &
PRAVIN S. PATIL, JJ.**

DATED : 7th JULY, 2025.

Heard.

2. In the present matter, the petitioner in earlier round of litigation came with the same grievance before this Court vide Writ Petition No. 2371 of 2024. This Court by order dated 8th April, 2024 directed the respondent no.3 to decide the grievance of the petitioner

within a period of 12 weeks by taking appropriate decision on the representation of the petitioner.

3. That respondent no.3 as per the directions of this Court decided the representation on 20th May, 2024 and hold that the post on which petitioner is claiming promotion i.e. Administrative Officer and Education Inspector are not available in the staffing pattern of the establishment of Municipal Council. It is further held that in view of communication of Deputy Director of Education, Amravati that said post comes into jurisdiction of Deputy Director of Education under Maharashtra Education Service Group-C (Administration Branch), cadre since year 2002-2003 sanctioned by the concerned authority. Only post of Administrative Officer is sanctioned to the Municipal Council, however, said post is permissible to be filled-in by way of direct recruitment only and not a promotional post. As such, by recording these reasons, the representation of the petitioner was rejected.

4. The petitioner being aggrieved by the decision of respondent no.5 dated 20th May, 2024, preferred the present petition and stated that as he is working as a Science Teacher in the establishment of respondent no.5, his case ought to have been

considered for the post of Administrative Officer or Education Inspector. As such, only on the basis of seniority, the petitioner is claiming the promotion to the post of Administrative Officer or Education Inspector in the respondent no.5-Municipal Council.

5. In the backdrop of above said factual aspect, we have perused the record and found that in the staffing pattern of the respondent no.5 Municipal Council, no post of Education Inspector is sanctioned. As such, the post which is not sanctioned in the staffing pattern, there is no reason for this Court to interfere in the matter to consider the grievance of the petitioner and direct the respondent no.5-Municipal Council to grant promotion to the petitioner against the post which is not in existence. Hence, the claim of the petitioner for the post of Education Inspector cannot be considered due to non-availability of the post.

6. In respect of remaining post i.e. Administrative Officer, it is the case of respondent no.5 that said post can be filled-in only by direct recruitment and the same is not promotional post. Furthermore, by communication of Deputy Director of Education dated 4th December, 2023, it is made clear that the post of Administrative Officer being a

single post, same cannot be filled-in by way of promotion. In view of this factual position, it is not possible to create promotional channel to fill up the said post by granting promotion to the petitioner.

7. It is a well settled position of law that the person who claiming the relief must come with a proposition of law and make out the case, by pointing out how in absence of channel of promotion post, can be made available to him. However, petitioner failed to point out any mechanism or any channel of promotion on the basis of any rules and regulation that he is entitle for promotion to the post of Administrative Officer or Education Inspector.

8. During the course of hearing, we have made inquiry from the petitioner as well as respondents as to whether in the past the post of Administrative Officer or Education Inspector was any time filled-in by way of promotion. It is informed to us that only Ad-hoc promotion has been granted in the past and till date no post is filled-in by way of regular promotion. Thus, it is clear that post is not promotional post and same cannot be filled-in by way of regular promotion.

9. In the circumstances, we find no merit in the submission of the petitioner and rather we find that respondent no.5 in his order dated

20th May, 2024, recorded cogent reasons for rejecting the representation of the petitioner. Hence, there is no need of any interference. Accordingly, petition is dismissed. No order as to costs.

[PRAVIN S. PATIL, J.]

[SMT. M.S.JAWALKAR, J.]