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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14658 OF 2025

Dilip Murlidhar Chaudhary,
Age:- 47 years, Occu.: Service,
R/o. At Post Faizpur, Tq. Yawal,
Dist. Jalgaon.

... Petitioner

VERSUS

1. The State of Maharashtra
Through its Secretary,
School Education and Sports Department,
Mantralaya, Mumbai -32
2. The State of Maharashtra,
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai – 12.
3. Commissioner of Education,
State of Maharashtra, Pune.
4. Director of Education,
Secondary and Higher Secondary Education,
Pune, Maharashtra.
5. Deputy Director of Education,
Nashik Region, Nashik.
6. Education Officer,
Education Department, Zilla Parishad,
Jalgaon.
7. Chief Officer,
Municipal Council,
Faizpur, Tq. Yawal, Dist. Jalgaon.
8. Head Master,
Municipal High School and Junior
College, Faizpur, Tq. Yawal,
Dist Jalgaon.

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Mr. N.R. Thorat, Advocate h/f Mr. B.A. Chavan, Advocate for Petitioner
Mr. R.S. Wani, AGP for Respondents Nos.
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CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATED : 12 JANUARY, 2026

ORDER [Per Hiten S. Venegavkar, J.] :-

1. The present petition under Article 226 of the Constitution of India seeks to quash and set aside the order dated 08.08.2023 passed by respondent No. 5 and to direct the said respondent to consider the proposal submitted by the petitioner afresh.

2. The petitioner states that the petitioner's father was employed as 'Naik' in Municipal High School and Junior College at Faizpur, Tq. Yawal, Dist. Jalgaon, which was run and managed by Faizpur Municipal Council. The petitioner's father expired two years before his retirement, and the petitioner was appointed as 'Shipai' on 01.07.1988 by way of resolution passed by the Standing Committee on compassionate ground. Respondent No.6, on 01.03.1990 granted approval to the appointment of the petitioner and since then the petitioner has been working regularly. On 30.04.2007, one employee working as a Laboratory Attendant retired on superannuation, and since then the post fell

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vacant. Consequently, the Principal of the School orally requested the petitioner to discharge the duties of Laboratory Attendant in the Secondary Department. Accordingly, though the petitioner was working as a '*Shipai*', he started attending to the duties of Laboratory Attendant with effect from 01.05.2007. On 24.08.2015, the resolution was passed unanimously by *Shaley Samiti Sabha* promoting the petitioner as Laboratory Attendant in the Secondary Department with retrospective effect from 01.07.2015. The proposal for the appointment of the petitioner on promotion was forwarded by respondent No.8 with retrospective effect from 01.07.2015 to respondent No.6 on 09.09.2015. As the proposal was kept pending, reminder letter was issued on 18.04.2016, but the same continued to remain pending on the file of respondent No.6. The petitioner states that on 11.12.2020, the Government Resolution came to be issued and the post of Laboratory Attendant was lapsed as per the said G.R. The petitioner further states that another employee who was working as Laboratory Assistant retired on 30.11.2013 in the Higher Secondary Department of the School, and therefore, the petitioner was again promoted as Laboratory Assistant with retrospective effect from 01.12.2013 subject to the approval of the Education Officer on the pay scale and other allowances as per the government rules. The school committee passed a resolution dated 18.12.2021 to that effect. On 01.12.2022, the proposal for the

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post of Laboratory Assistant was submitted to the Education Officer for approval along with all the necessary documents attached thereto. Again, the said proposal was kept pending, and therefore, several reminder were letters written by the Principal to respondent No.5. The petitioner submits that on 28.04.2022, respondent No.5 scrutinized the proposal dated 01.01.2022 and rejected the said proposal on the ground of ten deficiencies mentioned therein. The order of rejection mentioned that the proposal did not annex a certificate of non-surplus posts, resolution of the organization, reason for submitting the proposal after a delay of ten years, list of Board of Directors, seniority list, non-teaching staff, copy of promotional reservation etc. On 01.10.2022, the Principal of the school complied with the deficiencies and resubmitted the proposal of the petitioner for approval along with all the necessary documents. Resubmitted proposal disclosed reasons as to why the proposal was submitted belatedly after ten years. The reason mentioned therein, according to the petitioner, was that the petitioner was working on the vacant post since the date of retirement of the employee in whose post the petitioner was appointed since 30.11.2013. It was also mentioned that the proposal for the appointment of the petitioner on the post of Laboratory Attendant in the Secondary Department was also submitted to the Education Officer, Jalgaon for approval, but the said proposal was still pending and has not been

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decided. However, due to the Government Resolution dated 11.12.2020, as the post of Laboratory Attendant was lapsed, the petitioner's appointment as Laboratory Assistant was cancelled, and he was therefore promoted as Laboratory Assistant with retrospective effect as he had already been working on vacant post since 2013. The petitioner further submits that on 23.03.2023, a letter was issued by respondent No.5 to respondent No.8 asking for documents of certificate regarding non-excess of employees, clarification for delay of ten years in promoting the petitioner with retrospective effect from 2013, valid certified copy of Board of Directors approved by the Charity Commissioner, certified copy of *Bindunamavali* before promotion approved and verified by *Sanchmanyata* from the year of deputation till 2021-2022. The petitioner submits that respondent No.8 on 06.04.2023, submitted all the necessary documents and clarification as sought by respondent No.4. The petitioner further submits that though all the documents and clarification was submitted by respondent No.8 to respondent No.5, yet the proposal of the petitioner was rejected by an order dated 08.08.2023.

3. Learned advocate appearing for the petitioner argued that the order dated 08.08.2023 passed by respondent No.5 rejecting the proposal of the petitioner for approval is contrary to the provisions of

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law as the petitioner has already been working on the post of Laboratory Assistant since 01.12.2013 on the vacant post. He further argued that respondent No.5 has not applied its mind to the fact that the petitioner has been working as Laboratory Assistant on promotion. He further argued that detailed clarification and explanation have been provided by respondent No.8 along with petitioner's proposal for the delay of ten years in submitting of the proposal with respondent No.5. He thus argued that the order dated 08.08.2013 deserves to be set aside, and the petitioner's proposal is required to be reconsidered afresh by respondent No.5.

4. Learned AGP argued that the order passed by respondent No.5 rejecting the proposal of the petitioner is well reasoned and is passed after giving due consideration to the facts and documents placed on record. He submitted that there is no procedure to grant promotion to an employee with retrospective effect and then submitted a proposal for granting approval backdated. The proposal therefore was found to be devoid of any merit as the same was contrary to the provisions of law. Furthermore, the explanation provided for submitting the proposal of the petitioner for approval is after a period of ten years without there being any satisfactory explanation for the delay caused in submitting of the said proposal. He accordingly prayed that the petition be dismissed.

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5. We have perused the order impugned in the present petition and have also perused the documents placed on record by the present petitioner. The petitioner who was appointed as “*Shipai*” has been promoted from time to time by the respondent-Management on the basis of resolution passed by the Standing Committee and *Shaley Samiti Sabha*, which according to us does not fit into any of the procedures established while granting promotions to the employees. There is no mention of consideration of the seniority list of the employees of the said institution, and also there is a lack of consideration and mention of the roster being followed while granting promotion. It is also not possible to accept the explanation given by the petitioner for seeking approval for his appointment as Laboratory Assistant submitted in the year 2022 with effect from 01.01.2013. The petitioner in spite of our query, has failed to support his claim of retrospective approval for more than ten years with any provision of law and rules regulating the subject of granting approval to the appointments and/or promotional appointments of the employees. We therefore do not find any reason to interfere with the decision of respondent No.5 dated 08.08.2023 passed while rejecting the proposal of granting approval to the petitioner’s appointment as Laboratory Assistant with retrospective effect from 01.12.2013. We accordingly proceed to pass the following order:

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ORDER

- (i) The writ petition stands dismissed with no order as to costs.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

S P Rane