



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

930 WRIT PETITION NO.1528 OF 2026

ATUL UMAKANTRAO GOPCHADE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. V.S. Panpatte, Advocate for petitioner

Miss. Neha B. Kamble, AGP for respondent Nos.1 to 4

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CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.

DATE : 11th FEBRUARY, 2026

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

. The petitioner challenges the order dated 06.09.2024 passed by respondent No.3 – Education Officer, thereby refusing to grant the approval of petitioner as Shikshan Sevak with effect from 15.06.2023 to 14.06.2026 and thereafter as Assistant Teacher in regular pay scale from 15.06.2026. Consequential prayer regarding release due and payable salary to the petitioner by including his name in Shalarth Pranali through respondent No.2 has also been prayed.

2 Heard learned Advocate Mr. V.S. Panpatte for petitioner and learned AGP Miss. Neha B. Kamble for respondent Nos.1 to 4.

3 Learned Advocate for petitioner has taken us through all the documents and he submits that respondent No.5 runs respondent No.6 school. Petitioner is from Other Backward Class category and has his caste certificate to that effect. Respondent Nos.5 and 6 were in need of teacher, as the seniormost employee Mr. R.C. Rajure working with respondent No.6 school stood retired by superannuation on 31.03.2023. Respondent No.6 had applied for getting permission to fill up the said vacant post by application dated 10.04.2023. There was no response from respondent No.3. Again by way of reminder another application dated 28.04.2023 was filed. However, taking into consideration the need of teacher and no response from respondent No.3, petitioner had cleared TAIT examination and applied in view of advertisement published by respondent Nos.5 and 6 dated 11.05.2023 and 13.05.2023 in daily newspapers 'Godatir' and 'Mahasagar'. In the advertisement itself it was specifically provided that the teacher that is required was for Mathematics and for 9th and 10th standard. According to petitioner, the post for which he applied was within the ambit of staffing pattern for the academic year 2021-2022 and 2022-2023. After undergoing the selection process the petitioner was found eligible and came to be

appointed by order dated 06.06.2023 with effect from 15.06.2023. Proposal for his appointment was sent seeking approval of Education Officer, however, Education Officer by order dated 25.08.2023 rejected the same on the ground that the appointment was not through Pavitra Portal. The said order came to be challenged before this Court by filing Writ Petition No.11566 of 2023. The said petition came to be decided on 19.08.2024, thereby quashing the order dated 25.08.2023 passed by respondent No.3. Respondent No.3 was directed to reconsider the proposal and it was specifically stated that it should not be rejected on the same ground mentioned in the impugned communication dated 25.08.2023. The petitioner had then approached respondent No.3 by filing application dated 02.09.2024 to decide the said proposal. Now, without giving any opportunity for being heard to petitioner as well as to respondent Nos.5 and 6, respondent No.3 by impugned order dated 06.11.2024 (wrongly mentioned in the petition as '06.09.2024') rejected the proposal by placing reliance upon Government Resolution dated 06.02.2012, wherein it is stated that advertise was not published in widely circulated newspaper and existing backlog of ST category has not been filled. The candidate from OBC category could not have been appointed.

4 Learned Advocate for petitioner relies on the decision in **1991 (1) Mh.L.J. 830** [Dnyan Vikas Mandal vs. Parashram Lokhande and others],

wherein it has been specifically observed that the publication of advertisement in widely circulated two newspapers is not mandatory, but it is directory. He also submits that respondent No.3 placed reliance on the roaster, however, it has been wrongly applied. Respondent No.3 also failed to consider that though there was communication for either to send the surplus teachers; yet no candidate was sent by him for absorption, then this Court in **Rajan Shahudeo Ratul and others vs. The State of Maharashtra and others 2023 (6) Mh.L.J. 234** held that – “if Government failed to nominate any candidate from surplus list, then post cannot be allowed to remain vacant”. The grounds for rejection are unnecessarily made technical and the rejection is without any application of mind.

5 Per contra, learned AGP submits that in respect of roaster the school ought to have observed the same and when the posts reserved for SC and ST category were still vacant, preference ought not to have been given to OBC candidate.

6 Here, the most important fact that is required to be observed again and again that the Education Officers are not giving opportunity of hearing to the education institutions or the candidates / teachers or non teaching staff members, if there are defects which can be got explained, then

there should be a communication to that effect and if the explanation rendered is found to be insufficient, then the ultimate decision can be taken. Here, it appears that the Education Officer had not considered the communication dated 10.04.2023, 28.04.2023 given to his office. Photocopies of those documents show that acknowledgment was given by the office of respondent No.3. When permission was sought from his office for filling up of the said post, then it ought to have been responded. His own inaction has not been considered and then in spite of having knowledge about the decision of this Court in **1991 (1) Mh.L.J. 830** objection is raised in respect of the directory provision. Further, it appears that the Education officer has not considered the situation in his district itself, because daily newspaper 'Godatir' has wide circulation in the said district. Again, at the cost of repetition the second point is without taking note of the communication by respondent No.6 to his own office and then he was aware about the order passed by this Court on 19.08.2024. He ought to have considered the averments, documents filed by petitioner in the earlier petition also, that would have given him the idea as to which documents respondent Nos.5 and 6 are possessing. The third objection is in respect of roaster. It appears that he considered the roaster of 22.11.2019 for the appointment made on 15.06.2023. He ought to have considered the recent roaster that is just prior to the appointment in question. Respondent Nos.5

and 6 would have given extension for point No.3.

7 Another important point is that when the proposal was given initially, it came to be rejected by order dated 25.08.2023. At that time also all those points, which are now taken up in impugned order dated 06.11.2024, were available; yet, those points were not taken up for the rejection of proposal. Now, fresh points are invented though they were available at the time of scrutiny for the first time. We are coming across this situation in many matters and we are of the opinion that some Education Officers intentionally keep some points, which can be taken up by them for rejection, at the subsequent round. Respondent No.2 or the higher authority should take note of these observations of this Court and issue a circular that at the time of scrutiny of any proposal all the points should be considered and should not be left for any second round (if at all it would crop up). Such inventions made at the subsequent stage is not only the classic example of non application of mind, incomplete scrutiny but also administrator's *mala fide* intention and lack of administrative capacity. If such incidences occur, then the concerned Education Officer should be held responsible.

8 With above observations, we pass following order.

ORDER

- i) Writ Petition stands partly allowed.
- ii) The impugned order dated 06.11.2024 passed by respondent No.3 – Education Officer stands quashed and set aside.
- iii) The matter is relegated to respondent No.3.
- iv) He should call the proposal from respondent Nos.5 and 6 within a period of 15 days and thereafter, after carrying out the scrutiny, call upon respondent Nos.5 and 6 as well as the petitioner, as the case may be, to give explanation in respect of defects.
- v) Opportunity to respondent Nos.5 and 6 as well as petitioner should be given and thereafter respondent No.3 to take the decision on the proposal.
- vi) The entire exercise should be completed within a period of three months from today.
- vii) AGP to send copy of this judgment to higher Education Officer for implementation in view of paragraph No.6.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)