IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1595 OF 2024

Bhau Radhakrishna Ghadi ...Petitioner

Versus

The State of Maharashtra and Others ...Respondents

Mr. Prashant Bhavake with Mr. Utkarsh Desai, Adv. Shivaa Navanne & Ms. Durva Jadhav, for the Petitioner.
Mr. V. G. Badgujar, AGP, for the Respondents-State.

Coram : Sharmila U. Deshmukh & Neeraj P. Dhote, JJ.

Date : October 07, 2026.

P. C. :

1. By the present petition, the challenge is to the impugned order dated 11th October 2022, rejecting the proposal submitted seeking approval for the appointment of the Petitioner to the post of Peon in the Respondent No. 7-Secondary School.

2. The facts, as borne out from the petition, are that the post of Peon became vacant in the said Respondent No.7-school by reason of retirement on 1st September 2013. As per the roster, the said post was required to be filled from the open category. Applications dated 19th June 2013, 3rd September 2013 and 14th October 2013 were filed with Respondent No.5-Education Officer requesting to provide details of

suitable candidates for absorption in the said post or in the alternative, for permission to issue an advertisement for recruitment to the said post. Despite receipt of the applications, there was no response and the Respondent No.6-Educational Institution published an advertisement on 3rd March 2014. The Petitioner responded to the advertisement and came to be selected and was appointed with effect from 2nd May 2014.

3. On 2nd June 2014, the proposal came to be submitted to Respondent No.5-Education Officer, which came to be decided by the impugned order dated 11th October 2022, rejecting the said proposal. Hence, the present petition.

4. Learned counsel appearing for the Petitioner has taken this Court through the grounds for rejection and would submit that insofar as the rejection on the ground that no permission was taken for the issuance of the advertisement is concerned, the same is without substance inasmuch as three applications were filed with Respondent No.5-Education Officer. Drawing support from the decision of this Court in the case of ***Gramvikas Shikshan Mandal vs. State of Maharashtra***,[1] he would submit that this Court has held that where there is no response to the applications, the Management is left with no alternative, but to advertise for suitable candidate to fill up the vacancy and the

1 Writ Petition (St.) No.4493 of 2022, dtd. 26th April 2023.

Management cannot be expected to leave the post vacant. He would submit that in view of the said decision, the reason is unsustainable.

5. He would further point out that the ground at Sr. No.2 of the impugned order is vague and does not give specific details about which procedure was not followed as contemplated by the Government Resolution dated 6th February 2012. He would submit that the roster was duly verified and forms part of page 58 of the petition. He would submit that the reasons set out at Sr. Nos.4, 5 and 6 are covered by the decision of this Court in the case of ***Vikas Shikshan Mandal v. State of Maharashtra,***[2] and that the document at page number 66, which is the staffing pattern for the year 2012–2013 would indicate that two posts of Peon were vacant.

6. Per contra, learned AGP would support the impugned order. He submits that without any permission from the Education Officer, it was not open for the Management to advertise the post. He submits that any appointment made pursuant to such advertisement is not in accordance with the procedure prescribed in the applicable Government Resolutions. He would submits that the Government Resolution of 6th February 2012 prescribes the procedure to be followed and the Education Officer has come to a specific finding that the said procedure has not been followed. He would further submit that the staffing

2 Writ Petition No.6812 of 2024, dtd. 2nd February 2026.

pattern demonstrated that there was no sanctioned post of Peon and hence the appointment of the Petitioner has not been approved rightly by the Education Officer.

7. We have considered the submissions and perused the petition.

8. The Petitioner has placed on record the applications, which were filed by the Management with the Education Officer on 19th June 2013, 3rd September 2013 and 14th October 2013 seeking information about the surplus candidates and if there is no surplus candidate, then to give permission for advertisement. The applications specifically state that by virtue of the resignation of one peon, the post has become vacant on 2nd May 2013 and that the other peon has retired on 1st September 2013. Though three applications were filed with the Education Officer, there was no response and, therefore, the same cannot now constitute a ground for denying the approval to the appointment of the Petitioner.

9. The decision in the case of ***Gramvikas Shikshan Mandal*** *(supra)* squarely applies to the facts of the present case, wherein the Division Bench has held that the Management cannot be expected to leave the post vacant for such time that the State decides to take cognizance of the request of the Management and it is logical on part of the Management to presume the unavailability of surplus candidates in view of the failure of the Education Officer.

10. Insofar as the ground at Sr. No.2 of the impugned order is

concerned, the same is as vague as can be. There is no specific procedure set out which, according to the Education Officer, has not been followed while appointing the Petitioner. The material on record would indicate that advertisement was published in a widely circulated newspaper, applications were invited, and, thereafter, a resolution has been passed and the appointment order has been issued to the Petitioner. It is not demonstrated from the impugned order as to which procedure as prescribed in the Government Resolution dated 6th February 2012 has not been followed by the management.

11. Insofar as the ground at Sr. No.3 is concerned, the applications which were filed in the year 2013 with the Education Officer itself note that as per the Rules, the roster has been verified.

12. Insofar as the ground that as per the staffing pattern, the post of Peon is not sanctioned, a perusal of page 66 of the petition would indicate that for the academic year 2012–13, there were two posts of Peon, which were sanctioned. The appointment of the Petitioner is to the sanctioned post of Peon, which became vacant by reason of the retirement of one of the peons.

13. The other reasons given by the Education Officer to reject the proposal are as regards the Government Resolutions of 12th February 2015 and 11th December 2020. The said Government Resolutions were subject matter in the case of ***Vikas Shikshan Mandal*** *(supra)* where the

Division Bench has considered the Government Resolutions of 23rd October 2013 as well as the Government Resolution of 2015 and held in paragraph 12.14

> ***12.14*** *We are of considered view to hold that until the new staffing patters were introduced in 2019 and 2020, the last staffing policy introduced vide Government Resolution dated 25.11.2005 was holding field. Thus, the conundrum created by the various Government Resolutions from 2013 to 2019 & 2020 (IV category) over the staffing pattern and the fate of the appointments made in the mean period, stands solved. Staffing pattern sought to be introduced by Government Resolution of 2013 lost its effect ab initio in view of Government Resolution of 2015. Meaning thereby, the earlier staffing pattern of 2005 stood superseded by the staffing pattern of 2019 (for all categories excluding Class IV) and by the staffing pattern of 2020 (for Class IV category), both operational prospectively from their respective dates of issuance."*

14. From the above discussion, it is evident that the reasons which are given by the Education Officer to reject the proposal for approval are clearly unsustainable. Resultantly, the impugned order dated 11th October 2022 is hereby quashed and set aside.

15. The Education Officer is directed to grant approval to the appointment of the Petitioner to the post of Peon within a period of four weeks from today.

16. The Respondent No. 2-Deputy Director to include the name of the

Petitioner in the *Shalarth Pranali* and allot *Shalarth* ID to the Petitioner within a period of three weeks thereafter and to release the grant-in-aid salary within a further period of two weeks.

17. The petition is allowed in above terms.

[Neeraj P. Dhote, J.] **[Sharmila U. Deshmukh, J.]**

RAJU DATTATRAYA GAIKWAD
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