

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

WRIT PETITION NO. 5838 OF 2024

Ashwajit Sanjiv Kamble.

...Petitioner.

Versus

The State of Maharashtra and Others.

...Respondents.

*Mr. Chetan G. Patil, Mr. Prathamesh Magdum i/b Mr. Mandar G. Bagkar for the
Petitioner.*

Mr. V. M. Mali, AGP for the Respondent-State.

Coram : R. G. Avachat &
Ajit B. Kadethankar, JJ.

Date : February 3, 2026.

Oral Order (Per Ajit B. Kadethankar, J.):

1. One junior clerk Mr. Ananda Devappa Kamble working in the Respondent No.5-school was due to retire on superannuation with effect from 31st May 2023. In order to fill up the said post, the school management, i.e., the Respondent No. 4 filed an application with the Education Officer (Secondary) Zilla Parishad, Kolhapur on 13th July 2023 informing about the vacancy as also the necessity to fill up the post as also requiring supply of data of any available suitable candidate or else to give permission to fill up the post. It is not disputed that the said application was received by the Education Officer.

2. Mr. Patil, learned Counsel for the Petitioner would submit that pertinently the subject matter post was an isolated post and the claim of petitioner is based on that count. It appears that Education Officer did not respond to the application filed by school management nor raised any objection. As the school management was in need to fill up the subject matter post, an advertisement was issued in newspaper "Daily Punyanangari" on 5th August 2023. Selection process was conducted and on 18th August 2023, the Petitioner came to be appointed on the subject matter post. Consequent to the appointment, proposal was submitted by the school management to the Education Officer on 5th October 2023 seeking approval to the appointment of Petitioner.

3. Mr. Patil, learned Counsel for the Petitioner would further submit that vide impugned order dated 26th October 2023, the Education Officer has turned down the proposal and in nutshell, the reasons for turning down the proposal are that verified roster from the BC Cell, Pune has not been annexed to the proposal. Learned Counsel for the Petitioner would submit that since the subject matter post is an isolated post, roster would not be applicable to the present post. In all fairness, Mr. Mali, learned AGP would concede to this position.

4. Thereafter in paragraph no.2, the Education Officer has referred to the ban imposed by Government Resolutions dated 10th June 2010, 12th February 2015, 23rd October 2013 and 28th January 2019 and has

refused the proposal. Needless to mention that all these Government Resolutions are not applicable to the Petitioner's case as the Petitioner was appointed in the year 2023 and the ban imposed by above referred Government Resolutions had come to an end by that time.

5. Insofar as the last objection in respect of ban imposed by Government Resolution dated 5th May 2020 is concerned, Mr. Patil, learned Counsel for the Petitioner would submit that the said condition has been subsequently relaxed vide Government Resolution dated 12th April 2022. He would refer to clause (1) of the said Government Resolution, which reads thus :

“(१) ज्या प्रशासकीय विभागांनी वित्त विभागाच्या दि.११.०२.२०१६ च्या शासन निर्णयातील निर्देशाप्रमाणे सुधारित आकृतीबंध अंतिम मंजूर केले आहेत, अशा सुधारित आकृतीबंधातील महाराष्ट्र लोकसेवा आयोगाच्या कक्षेतील पदे वगळता अन्य पदे ५० टक्के भरण्यास अनुमती देण्यात येत आहे. वरील प्रमाणात पदभरतीसाठी एकही पद उपलब्ध होत नसल्यास किमान एक पद भरता येईल.”

6. Mr. Patil, learned Counsel for the Petitioner would submit that it was an isolated post and therefore would be perfectly covered by clause (1) of Government Resolution dated 12th April 2022.

7. In view of this, we find that the Petitioner has made out a case for indulgence. Hence, we pass the following order :

:- O R D E R :-

- (I) Writ Petition is allowed.
- (II) Impugned order dated 26th October 2023 is quashed and set aside.
- (III) The Education Officer shall accord approval to the appointment of Petitioner with effect from the date of his appointment to the subject matter post.

8. Writ petition stands disposed of.

[Ajit B. Kadethankar, J.]

[R. G. Avachat, J.]