

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

WRIT PETITION NO. 9970 OF 2024

Ninad Shantaram Bhosale

...Petitioner

VERSUS

The State Of Maharashtra Through
The Secretary, Higher And Technical
Education Dept. And Ors

...Respondents

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Mr. Narendra V. Bandiwadekar, Senior Advocate (Through VC)
a/w. Mr. Sagar Mane & Rushikesh Jagdale, Advocate for petitioner.

Mr. S. B. Kalel, AGP (Through VC) for respondents-State.

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**CORAM : R.G. AVACHAT AND
AJIT B. KADETHANKAR, JJ.**

DATE : 16th FEBRUARY, 2026.

ORAL ORDER (PER AJIT B. KADETHANKAR, J)

1. Rule. Rule is made returnable forthwith. With the consent of the learned counsel for the parties, the Writ Petition is taken up for final hearing and disposal.

2. The facts of the present case are not in dispute. Considering the nature of the prayer clauses in the Petition, we deem it appropriate to dispose of the Writ Petition finally.

3. The post of Junior Clerk in Respondent No. 5 – Umatai Sharad Parulekar Madhyamik Vidyalaya – was to fall vacant on

account of the superannuation of Shri Manohar Pandurang Karambe, who retired on 31st May 2019. In anticipation thereof, on 7th February 2019, the School Management submitted an application to the Education Officer, Zilha Parishad, Ratnagiri, indicating the proposed vacancy and seeking permission to fill up the said post. The School Management also sought information regarding the availability of any suitable surplus candidate for appointment to the said post.

4. Mr. Narendra Bandiwadekar, learned Senior Advocate appearing for the Petitioner, submits that at no point of time did the Education Officer respond to the said application. He submits that since there was no response, the School Management was constrained to publish an advertisement in the daily “Ratnagiri Express” on 15th April 2019 inviting applications for the said post. The advertisement is annexed at page 28 of the Petition. Pursuant thereto, four candidates, including the Petitioner, appeared for the selection process conducted on 25th April 2019. The relevant documents, including the marksheets of the candidates, are annexed to the Petition. Upon completion of the selection process, the School Management found the Petitioner to be the fittest candidate and resolved on 4th May 2019 to appoint him.

Accordingly, the Petitioner came to be appointed on 1st June 2019. Thereafter, on 10th November 2022, the School Management submitted a proposal to the Education Officer seeking approval to the appointment of the Petitioner. However, by order dated 2nd December 2022, the Education Officer rejected the proposal. The impugned order is at page 37 (Exhibit “G”) of the Petition. Five objections have been raised in the impugned order. Learned Senior Advocate submits that none of the objections can be sustained in law or on facts and that appropriate directions be issued to grant approval to the Petitioner’s appointment.

5. Mr. Kalel, learned AGP, supports the impugned order and submits that the Education Officer was justified in rejecting the proposal.

6. With the assistance of the learned Advocates for the respective parties, we have perused the documents annexed to the Petition as well as the reply filed by the concerned authority.

7. The first objection raised by the Education Officer is that the School Management had not sought prior permission to fill up the vacancy in view of the Government Resolution dated 6th February 2012. However, from the record, it is evident that on 7th February

2019 the School Management had applied to the Education Officer seeking necessary permission and information regarding the availability of surplus candidates. Mr. Kalel, learned AGP, fairly states that the said communication was received by the competent authority, as it bears the inward seal and signature. He is unable to justify why no response was given to the said communication. In view thereof, objection No. 1 cannot be sustained.

8. Objection Nos. 2 and 3 pertain to the alleged delay in submitting the proposal for approval. It is well settled by various judgments of this Court that mere delay in forwarding the proposal cannot be a ground to reject approval, unless it is the case of the authority that the appointment was vitiated by fraud, misrepresentation or manipulation of records. No such case is made out in the present matter. Hence, objection Nos. 2 and 3 also cannot be sustained.

9. As regards objection No. 4, the vacancy arose due to the superannuation of Shri Manohar Pandurang Karambe. It is not in dispute that the said post was a sanctioned and approved post at the relevant time. Therefore, the objection that the post was not sanctioned is untenable.

10. Objection No. 5 pertains to the roster. Learned Senior Advocate submits that the post in question is an isolated post and therefore the roster is not applicable. Mr. Kalel, learned AGP, fairly accepts this position.

11. In view of the above, we find that the Education Officer has erred in passing the impugned order. The Petition therefore deserves to be allowed.

12. Accordingly, the Writ Petition is disposed of with the following directions:

(i) The Writ Petition is allowed.

(ii) The impugned order dated 2nd December 2022 passed by Respondent No. 3 – Education Officer – is hereby quashed and set aside.

(iii) The Education Officer shall grant approval to the Petitioner's appointment within a period of four weeks from today and release the consequential salary grants in accordance with law.

13. Rule is made absolute in the above terms.

14. The Writ Petition stands disposed of accordingly.

[AJIT B. KADETHANKAR, J.]

[R.G. AVACHAT J.]