



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 WRIT PETITION NO. 3071 OF 2026

KAPIL RAMCHANDRA BASWADE

VERSUS

THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...

Mr. V. S. Panpatte, Advocate for the Petitioner

Mr. S. B. Pulkundwar, AGP for Respondent Nos.1 to 3 – State

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CORAM : SMT. VIBHA KANKANWADI AND
AJIT B. KADETHANKAR, JJ.

DATE : 06.05.2026

PER COURT :-

. In view of our order dated 22.04.2026, the learned AGP makes a statement that the letter dated 19.01.2023 was received by the Education Officer, but no response was given thereto, though it is stated in the impugned order dated 30.05.2025 that permission was not granted. However, that decision was not communicated to the petitioner. He seeks accommodation to file an affidavit-in-reply, thereby giving all the details.

2. Here, it is to be noted that the petitioner has come with a case that all the necessary documents were annexed to the proposal dated 15.07.2023. It is further to be noted that the reason for rejection is that permission to fill up the post was not granted and, in view of Clause No.1.8 of



the Government Resolution dated 02.05.2012, the proposal was rejected.

3. Learned Advocate for the petitioner is relying on the decision in *Vijaykumar Sonyabapu Salunke vs. State of Maharashtra* in *Writ Petition No.11077 of 2019* decided on *26th February 2024*, wherein, on the basis of same Government Resolution, the proposal was rejected and this Court interpreted it taking note of the earlier decisions. He also relies on the decision in *Shubhangi Bhagwat Chate and Others vs. State of Maharashtra and Others* in *Writ Petition No.837 of 2018* decided on *13.04.2018*, wherein also the same Resolution was involved, but this Court, taking note of earlier decisions in Writ Petition 9709 of 2016 decided on 23.11.2017, by setting aside the impugned order directed the Education Officer to grant approval to the appointments of the petitioners as Shikshan Sevaks.

4. Here, we have considered the first page of the proposal for approval of the appointment of the petitioner, which appears to be dated 15.07.2023, though there appears to be a correction in the date. However, the annexures which have been noted do not state that the letter dated 19.01.2023 was annexed with the documents, though it appears to have been annexed. However, taking into consideration the statement made by the learned AGP that the letter dated 19.01.2023 was received by the Education



Department, we may not now give importance to the same. It appears that the Education Officer has not considered the judgments of this Court wherein this Court has interpreted the Government Resolution dated 02.05.2012. If we consider paragraph Nos.6 and 7 from the judgment in Writ Petition No.9709 of 2016 decided on 23.11.2017, then it can be seen that it was observed that the ban on recruitment as per the Government Resolution dated 02.05.2012 was not applicable to filling up posts from reserved category candidates and, in that matter, petitioner Nos.3 and 4 were appointed from ST and SC categories respectively. In the decision in Writ Petition No.11077 of 2019, while taking note of the decision in *Shubhangi Chate* (supra), the same facts were considered. However, in respect of the ban on recruitment imposed under Condition Nos.1 to 8 in the Government Resolution dated 02.05.2012, it was observed that respondent Nos.1 and 2, i.e. the State Government and the Education Officer, had not come with a case that, when it was communicated by letter dated 24th September 2012 to the Education Officer that a post was going to become vacant, the Education Officer had taken steps to supply a surplus teacher. That means, whether the procedure that was required to be followed under the said Resolution itself was adhered to or not was considered. Here, we could have proceeded to take a similar view; however, in the absence of an affidavit-in-reply, we may not be justified in



reversing the order at this stage. At the same time, it is very much clear from the impugned order that it has been passed without considering the judgments of this Court in *Shubhangi Chate* (supra), *Vijaykumar Salunke* (supra), and *Writ Petition No.9709 of 2016* (supra). Therefore, we are of the opinion that the matter deserves to be relegated to respondent No.3 with specific directions so that all the facts can be considered and, even by giving an opportunity to the petitioner as well as the Educational Institution, an appropriate decision can be taken. Hence, we partly allow the writ petition and pass the following order :

ORDER

- i. The Writ Petition stands partly allowed.
- ii. The impugned order dated 30.05.2025 is hereby quashed and set aside.
- iii. The matter is relegated to respondent No.3
- iv. Respondent Nos.4 and 5 to re-submit the proposal dated 15.07.2023 to respondent No.3. In addition thereto, if respondent Nos.4 and 5 want to add certain more documents, the same should be annexed separately. Such re-submission of



the proposal by respondent Nos.4 and 5 be given within 15 days from today. Respondent No.3 should give an opportunity of hearing and, if after scrutiny of the documents she is of the view that there is any deficiency in the proposal, then to pass the final order within a period of eight (8) weeks from today.

(iv) While taking the decision, respondent No.3 should consider the various decisions of this Court, including *Vijaykumar Sonyabapu Salunke* (supra), *Shubhangi Chate* (supra), *Writ Petition No.9709 of 2016* (supra), *Writ Petition No.8587 of 2016*, as well as the other Government Resolutions and other decisions of this Court. The proposal shall not be rejected on the same ground alone which was stated in impugned communication dated 30.05.2025.

(AJIT B. KADETHANKAR, J.)

(SMT. VIBHA KANKANWADI, J.)