

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1713 OF 2015

Murlidhar Tejerao Shinde

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri A. N. Nagargoje, Advocate h/f Shri Harish S. Bali, Advocate for the Petitioner.

Shri K. G. Patil, Addl. G. P. for the Respondent No. 1.

Shri V. S. Panpatte, Advocate for Respondent Nos. 2, 3 and 6.

Shri S. R. Choukidar, Advocate for the Respondent No. 5.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 29TH JULY, 2015.

PER COURT :

. The learned counsel for the petitioner states that, the petitioner was appointed as Shikshan Sevak on 12.06.2010. The approval was granted on 20th October, 2013. Thereafter, the petitioner is declared surplus and temporarily absorbed in the respondent No. 6/Zilla Parishad School. However, the salary is not paid from June 2013. According to the learned counsel, the petitioner is entitled for permanent absorption in Zilla Parishad school and also entitled for salary from June 2013.

2. The learned counsel for the respondent No. 5 submits that, the petitioner was appointed in the year 2010 as Shikshan Sevak. Before he could complete his period of Shikshan Sevak, the post was not available and he could not have been given approval inter alia could not have been absorbed, as prior to completion of three years as Shikshan Sevak, the post on which the petitioner was appointed was not available because of reduction of strength of students. The order of approval granted to the petitioner is illegal.

3. The learned counsel for respondent Nos. 2, 3 and 6 submits that, the letter is issued to the respondent No. 5 to submit salary bill of the petitioner and as per the circular action is going on to absorb surplus teachers firstly on vacant posts in private primary schools. As such, it is not possible to absorb the petitioner permanently in Zilla Parishad school.

4. We have considered the submissions canvassed by learned counsel for respective parties.

5. It is for the Education Officer to consider about the availability of post or not. The order of approval dated 20.10.2013 in favour of the petitioner is not assailed by any party. The said order of approval still stands. The petitioner has been temporarily absorbed in Zilla Parishad school i. e. the respondent

No. 6. As far as permanent absorption in Zilla Parishad school is concerned the provisions of the M. E. P. S. Rules do not permit the said recourse. It is only if there is no vacant post available in private school, then absorption in zilla parishad school is permissible. It is not disputed that, petitioner is working with the respondent No. 6 as on today. As per the procedure the respondent No. 5 should submit the salary bill for the period from June 2013 to the Education Officer. The Education Officer shall after verifying the period for which the salary is not paid, shall process and sanction the salary as is permissible. The Education Officer shall complete the said process expeditiously and preferably within a period of three (3) months from today. The writ petition accordingly is disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]

bsb/July 15