

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.2662 OF 2003

Smt. Vandana d/o Rambhau Nemade,
Age-26 years, Occu:Nil,
R/o-Bamnora, Tq-Yawal,
Dist-Jalgaon.

...PETITIONER

VERSUS

- 1) The District Selection Committee,
Through its President,
Collector, Jalgaon,
- 2) The Chief Executive Officer,
Zilla Parishad, Jalgaon,
- 3) The Education Officer (Primary),
Zilla Parishad, Jalgaon.

...RESPONDENTS

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Mr.S.R. Barlinge Advocate for Petitioner.
Mr.P.N. Mule, A.G.P. for Respondent No.1.
Mr.Vijay Sharma Advocate for Respondent No.2.

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WITH

WRIT PETITION NO.2526 OF 2003

Smt. Surekha d/o Sitaram Harake,
Age-28 years, Occu:Nil,
R/o-Rajeshahi Colony, Shivajinagar,
Palwan Road, Beed, Tq. & Dist-Beed.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
- 2) The District Selection Committee,
Beed, Through its President/
Collector, Beed,
- 2) The Chief Executive Officer,
Zilla Parishad, Jalgaon,
- 3) Zilla Parishad, Beed,
Through its Chief Executive Officer,
- 4) The Education Officer (Primary),
Zilla Parishad, Beed.

...RESPONDENTS

...

Mr. S.R. Barlinge Advocate for Petitioner.
Mr. P.N. Mule, A.G.P. for Respondent Nos.1
and 2.

Mr. H.K. Munde Advocate for Respondent Nos.
3 and 4.

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**CORAM: S.V. GANGAPURWALA AND
A.I.S. CHEEMA, JJ.**

DATE : 21ST APRIL, 2015

ORAL ORDER :

1. Mr. Barlinge, the learned counsel for the
Petitioners submits that the Petitioners were
required to be considered for the post of Shikshan

Sevak in the Respondent Zilla Parishad School as per the Government Resolution dated 21st October 2002. The said Government Resolution was issued, pursuant to the order passed by this Court in Writ Petition No.817 of 2001. According to the learned counsel, instead of filling up the posts from the candidates whose names are recommended by Employment Exchange, in Writ Petition No.2662 of 2003 the Respondent had issued public notice inviting applications for the post of Shikshan Sevak. The same is not in conformity with the Government Resolution dated 21st October 2002. The learned counsel submits that in Writ Petition No.2526 of 2003 the proclamation was issued for filling up the back log of reserved category candidates. The Petitioner belongs to S.B.C. Category. In Writ Petition No.2526 of 2003, this Court vide its order dated 5th November 2003 had directed the Respondent to keep one seat vacant of S.B.C. category candidate. So also one post was directed to be kept vacant in Writ Petition

No.2662 of 2003 vide order dated 1st December 2003. The learned counsel submits that as the posts are kept vacant, the Petitioners can be considered on the said posts. It is not the case that the Petitioners are not eligible. The Petitioners are eligible to be appointed as Shikshan Sevak.

2. Mr. Sharma, the learned counsel for Respondent No.2 in Writ Petition No.2662 of 2003, submits that the Respondent has followed the procedure as laid down by this Court vide Judgment dated 1st November 2002 in Writ Petition No.817 of 2001. The learned counsel submits that no illegality has been committed.

3. Mr. Barlinge, the learned counsel submits that the question of crossing the upper age limit would not arise in this case as age relevant for consideration is the age on the date of application. The Petitioners names were

recommended in the year 2002-2003 and as such that would be relevant date for considering the age.

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

5. This Court in Writ Petition No.817 of 2001 had passed the following order:-

"For the reasons stated in the accompanying Judgment the Court holds that the method of inviting applications under clause 13 of the Shikshan Sevak Scheme dt: 10th March 2000 from the specified government offices namely employment exchange, district social welfare officer, Commissioner (Tribal Development) cannot be held to be illegal, arbitrary or unconstitutional and it is desirable that in addition to these modes applications are also invited by publishing a proclamation in the Local Newspaper in future. The challenge raised in the Petition, therefore fails."

6. On perusal of the said order, it is manifest that this Court has also desired that in

addition to the modes which were referred to, the applications should be invited by publishing proclamation in newspaper in future. The selection process was for the year 2003-2004.

7. In light of Judgment of this Court in Writ Petition No.817 of 2001, it cannot be said that Respondent Zilla Parishad committed any error by issuing public notice/proclamation.

8. The question of appointment of Petitioners at this stage, cannot be considered. It is also trite that even if the names of the candidates appear in the select list, that would not give the candidates any right to be appointed. It is not the case that Petitioners names were included in the select list. The Petitioners names were not included in the select list of candidates. Considering the fact that one post was directed to be kept vacant, we would have considered the case of the Petitioners had their

names been included in the select list of candidates.

9. However, considering the fact that the names of the Petitioners were not even included in the select list of candidates, it would not be possible to direct the Respondents to consider to appoint the Petitioners pursuant to the selection process of 2003.

10. In light of above, both the Writ Petitions are dismissed. Rule disposed of. No costs.

[A.I.S.CHEEMA, J.]

asb/APR15

[S.V. GANGAPURWALA, J.]