

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2384 OF 2014

YASHPAL WAMANRAO BHANDE
VERSUS
THE STATE OF MAH AND ORS

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Advocate for Petitioners : Deshpande Amit S.
AGP for Respondents State: Mr.K.G.Patil
Mr.Hon Vinayak D. Sr.Counsel For R/2
Mr.V.C.Patil h/f Adv.Mr.Bondar U.B. For R/4

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**CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA,JJ.**

DATE : 3rd February, 2015.

P.C. :

The petitioner assails the order dated 22/6/2012 passed by the Collector, Latur, thereby rejecting proposal sent by Municipal Council.

2] Mr.Deshpande, learned counsel submits that in the year 2005, the petitioner was appointed. Resolution was passed. Petitioner pursuant to the said resolution was appointed as Shikshan Sevak and joined the said post. According to the learned counsel, applying Government Resolution dated 16/12/2009, the proposal seeking approval to the appointment of the petitioner is rejected. The learned counsel submits that earlier on 29/8/2005, Resolution was also passed by Municipal Council that the strength of the students has increased. According to the same, teachers are

not available. In spite of sending proposal to the Zilla Parishad, the teachers are not yet being appointed. Thereafter, Resolution was passed on 4/6/2007. According to the learned counsel, since 2005, petitioner is working on the said post. Petitioner is eligible to be appointed as Shikshan Sevak and possesses all the requisite qualification.

3] Mr.Hon, learned counsel for the Municipal Corporation accepts the arguments of the learned counsel for the petitioner.

4] Mr.Patil, learned AGP submits that the petitioner is not appointed through selection process as is contemplated in the Government Resolution dated 16/12/2009. Considering the same, order has been rightly passed.

5] We have considered submissions canvassed by learned counsel for respective parties. It is not disputed that the petitioner is appointed in the respondent no.2 by the Municipal Corporation by passing Resolution. Naturally Government Resolution dated 16/12/2009 would not apply to the appointments made in the year 2005. Even there is Circular dated 4/2/2005 passed by the Director Municipal Administrator to regularise the teachers who have been appointed. While passing the impugned order, the said circular has not been considered and only on the ground that the appointment is not in tune with the Government Resolution dated 16/12/2009, the proposal is rejected the same is erroneous. The proposal could not have been rejected relying on subsequent Government Resolution which was not in force when the petitioner was appointed. On the contrary, the authority ought to have

considered the circular dated 4/2/2005 which was in force when the petitioner was appointed.

6] In light of that, we pass following order :

[a] The impugned order is quashed and set aside. The Collector shall reconsider the proposal sent by Municipal Council seeking approval to the appointment of the petitioner as Shikshan Sevak on its own merits and shall not reject it on the ground of Government Resolution dated 16/12/2009. Ofcourse, the Collector will be entitled to consider the sanctioned strength at the time when the petitioner was appointed and also the criterion of appointment.

7] Writ Petition is disposed of with above observations and directions. No costs.

V.L.ACHLIYA,J.

S.V.GANGAPURWALA,J.

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