

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

Writ Petition No. 7614 of 2015

Swapnil s/o. Sanjay Patil,
Age : 22 years,
Occupation : Service,
R/o. Krishnapuri Pachora,
Taluka : Pachora,
District : Jalgaon.

.. Petitioner.

versus

1. The State of Maharashtra,
Through Secretary,
School Education Department,
Mantralaya, Mumbai - 32.
2. The Education Officer (Secondary),
Zilla Parishad, Jalgaon,
Taluka & District : Jalgaon.
3. Nutan Mahila Sarvoday Bal Vikas Sanstha,
Pachora, Taluka : Pachora,
District : Jalgaon,
Through its Chairman.
4. D.M. Sau. Nirmalatai Dattatray Tavare
Secondary and Higher Secondary School,
Pachora, Taluka : Pachora,
District : Jalgaon,
Through its Headmaster / Headmistress. .. Respondents.

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Mr. Ajay D. Pawar, Advocate, for the petitioner.

*Mr. S.Y. Mahajan, Assistant Government Pleader, for
respondent nos.1 and 2.*

Mr. S.V. Dixit, Advocate, for respondent no.3.

Respondent no.4 served (Absent).

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**CORAM : S.S. SHINDE &
A.M. BADAR, JJ.**

DATE : 16TH OCTOBER 2015

ORAL JUDGMENT (Per S.S. Shinde, J.) :

1. Heard Adv. Mr. A.D. Pawar for the petitioner, learned AGP Mr. A.V. Deshmukh for respondent nos.1 and 2, and Adv. Mr. S.V. Dixit for respondent no.3. None for respondent no.4 through served.
2. Rule. Rule made returnable forthwith. By consent, heard finally.
3. This Writ Petition is filed aggrieved by the order dated 20th March 2014, passed by respondent no.2.
4. The learned Counsel appearing for the petitioner submits that the reasons assigned in the impugned order are not sustainable in the light of decision of this Court dated 10th July 2015 in Writ Petition No. 1452 of 2015.
5. The learned Assistant Government Pleader has invited our attention to the averments made in the affidavit in reply filed on behalf of

respondent nos.1 and 2, so also, relevant Government Resolution. He submits that the appointment of the petitioner is not with prior permission and secondly, at the relevant time, there was ban on recruitment and the petitioner was appointed during that period.

6. Upon hearing learned Counsel for respective parties, we find that the issue involved in this petition is no longer *res integra* and is covered by the decision / order of this Court dated 10th July 2015 in Writ Petition No. 1452 of 2015. While considering similar fact situation in para 4 of the order, this Court has observed thus :—

" Mr. Patil, learned Addl. Govt. Pleader states that 10 % of the total vacant posts can be filled in on compassionate ground in a year. The ban on recruitment would not be an embargo for appointing a person on compassionate ground, as they are not required to be appointed after following selection process nor they are required to compete. "

In that view of the matter, ban on recruitment should not be an embargo for appointing a person on compassionate ground and also prior permission was also not necessary.

7. In the result, the petition is allowed.

The impugned communication dated 20th March 2014, Exhibit "E" is set aside and respondent no.2 is directed to accord approval to the

petitioner's appointment on compassionate ground, but subject to fulfilling other conditions, if any.

8. Rule is made absolute in the above terms. There shall be no order as to costs.

(A.M. BADAR)
JUDGE

(S.S. SHINDE)
JUDGE

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