

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7878 OF 2014

Mallinath s/o Melgiri Kante
Age 23 years, Occu : Service,
R/o: Gunjoti, Tq. Omrega,
Dist. Osmanabad.

... Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
School Education Department,
Mantralaya, Mumbai-32.
2. The Deputy Director of Education,
Latur Region, Latur.
3. The Education Officer (Primary)
Zilla Parishad, Osmanabad.
4. The Secretary,
Shrikrishna Education Society,
Gunjoti, Tq. Omerga, Dist. Osmanabad.
5. The Head Master,
Shrikrishna Prathmik Vidyamandir
Gunjoti, Tq. Omerga,
Dist. Osmanabad.

... Respondents

.....

WITH
WRIT PETITION NO. 7879 OF 2014

Manjushri Chandrakant Choure
Age 24 years, Occu : Service,
R/o: Gunjoti, Tq. Omerga,
Dist. Osmanabad.

... Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
School Education Department,
Mantralaya, Mumbai-32.

2. The Deputy Director of Education,
Latur Region, Latur.
3. The Education Officer (Primary)
Zilla Parishad, Osmanabad.
4. The Secretary,
Shrikrishna Education Society,
Gunjoti, Tq. Omerga, Dist. Osmanabad.
5. The Head Master,
Shrikrishna Prathmik Vidyamandir
Gunjoti, Tq. Omerga,
Dist. Osmanabad.

... Respondents

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Advocate for petitioners : Mr. R. R. Suryawanshi
A.G.P. for respondent Nos. 1 and 2 : Mr. D. B. Bhange
Advocate for respondent No. 3 : Mr. K. J. Ghute Patil
Advocate for respondent Nos. 4 and 5 : Mr. K. V. Patil
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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 14th JULY, 2015

ORAL JUDGMENT (PER S. V. GANGAPURWALA, J.) :-

1. Rule. Rule made returnable forthwith. By consent of parties, matter is taken up for final hearing at admission stage.
2. Mr. Suryawanshi, the learned counsel for the petitioners states that the proposal seeking approval to the appointment of the petitioners as Assistant Teachers has been rejected only on the ground that before making appointment, prior permission is not obtained. The learned counsel has submitted that after following due procedure of law, the

petitioners have been selected by duly constituted selection committee and thereafter they have been appointed. The learned counsel submits that the petitioners are eligible in all respects. The petitioners are appointed on clear vacant posts.

2. Mr. Kalyan Patil, the learned counsel for respondent Nos. 4 and 5 submits that prior to issuance of advertisement, permission from the Education Officer was asked. After waiting for a reasonable time, advertisement was issued. Even the management has absorbed one surplus teacher.

3. Mr. Ghute Patil, the learned counsel for the Education Officer submits that during the relevant time, there was ban on recruitment. Prior permission was not obtained before issuance of advertisement. There are many surplus teachers available who are to be absorbed.

4. We have considered the submissions canvassed by the learned counsel for the respective parties. It appears that the management has sought permission of the Education Officer vide application dated 17.05.2013, seeking permission to fill in the posts by issuing advertisement and after waiting for more than 15 days thereafter, on 09.06.2013, advertisement was given. Pursuant to the said advertisement, the selection process was conducted and it appears that the petitioners are appointed. Mr. Ghute Patil, the learned counsel for

the Education Officer also accepts the fact that the respondent management has absorbed one surplus teacher.

5. Considering the aforesaid aspects of the matter, it was inappropriate on the part of the Education officer to reject the proposals seeking approval to the appointment of the petitioners on the ground that prior permission of the authority was not taken. The application was given by the petitioners to that effect.

6. In the light of the above, we pass the following order.

O R D E R

- I. The impugned order rejecting the proposal seeking approval to the appointment of the petitioners is quashed and set aside. The Education officer shall consider the proposal submitted by the Head Master seeking approval to the appointment of the petitioners afresh and it shall not reject the same on the ground that prior permission was not obtained or surplus candidates were required to be absorbed. The Education Officer shall consider the position as it stood when the appointments were made.
- II. Rule is made absolute in the above terms. The writ petitions are accordingly disposed of. No costs.

(V. K. JADHAV, J.)
rlj/

(S. V. GANGAPURWALA, J.)