

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10373 OF 2014

RAJESH BALASAHEB GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shelke Shivaji T.
AGP for Respondent State : Mr.D.B.Bhange
Advocate for Respondent no.3 : Mr.A.G.Ambetkar

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**CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA,JJ.
DATE : 21st January, 2015.**

PER COURT :

The learned counsel for petitioner submits that the petitioner was appointed as Shikshan Sevak vide appointment order dated 18/2/2012 for a period of 3 years. He came to be appointed in the vacant post in place of one Shri R.U.Naik who was promoted as Assistant Head Master. Proposal was sent by the management seeking approval to the appointment of petitioner as Shikshan Sevak. The same was rejected vide order dated 6/9/2013 on the ground that the proposal seeking approval to the appointment of Mr.Naik as Assistant Head Master/Head Master has been rejected.

2] The learned counsel submits that said Mr.Naik had filed Writ Petition No.5788/13 and vide order dated 9/10/13, the said Writ Petition was allowed and it was directed that said Mr.Naik shall be granted approval as an Assistant Head Master as well as Head

Master in pursuance to the proposal submitted by the management. The learned counsel submits that thereafter, vide order dated 31/10/2013, approval was granted to the appointment of Mr.Naik as Assistant Head Master. According to the learned counsel, thereafter, again the management forwarded the proposal stating that said Mr.Naik is granted approval as an Assistant Head Master and as such appointment of the present petitioner to be approved in the said vacant post, but same is rejected on the ground that year-wise position of the vacant post is not submitted. The same is illegal.

3] Learned AGP submits that unless the management forwards the details of the vacancies of each year, the approval cannot be granted.

4] In the order dated 6/9/2013, approval to the appointment of the petitioner was rejected on the ground that the petitioner was appointed in place of one Mr.Naik and the proposal seeking approval to the appointment of Mr.Naik as Assistant Head master was rejected. However, in the order passed by this Court in Writ Petition No.5788/13, the Court directed the authority to grant approval to the appointment of Mr.Naik as Assistant Head Master, naturally the petitioner was appointed on the post which became vacant on account of promotion of Mr.Naik as Assistant Head Master. Subsequently, even approval was granted by Education Officer to the appointment of Mr.Naik as Assistant Head Master. The reason given in the impugned order is not in consonance with the reason given in the earlier order rejecting approval. The staffing pattern is decided by Education Officer every year. It was

for the Education Officer to consider the proposal in light of the other facts, such as approval being granted to the promotion of Mr.Naik as Assistant Head Master, who had only to see whether the petitioner was appointed on the post becoming vacant because of the promotion of Mr.Naik.

5] In light of above, the impugned order is quashed and set aside. The Education Officer shall consider the case of approval to the appointment of petitioner as Shikshan Sevak vide appointment order dated 18/2/12 considering that the post of Mr.Naik as Assistant Head Master is approved and the post which was initially held by Mr.Naik as Assistant teacher having become vacant. The said exercise shall be done by Education Officer expeditiously preferably within two months.

6] Writ Petition is disposed of. No costs.

V.L.ACHLIYA,J.

S.V.GANGAPURWALA,J.

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