

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

WRIT PETITION NO. 3384 OF 2015

Shaikh Mohammad Rafiq Shafi Shaikh .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Girish N. Kulkarni, Advocate for the Petitioner.
Smt. S. A. Dhumal, A.G.P. for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 19TH JUNE, 2015.

PER COURT :

. The order dated 21.09.2013 issued by the respondent No. 2 is assailed. The learned counsel for the petitioner submits that, the petitioner is appointed vide appointment order dated 01.12.2011. The Education Officer in the letter of approval states that, the petitioner is granted approval with effect from 07.09.2013. The same is erroneous.

2. The learned counsel submits that, in view of Government Resolution dated 04.09.2013 the permission was given to fill in the post. Prior to that post could not have been filled in as there were large number of surplus candidates which were required to be absorbed.

3. According to the learned Assistant Government Pleader no error has been committed in passing the said order.

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

5. It is not disputed that the petitioner is appointed with effect from 01.12.2011. The respondent No. 4 is a minority institution as contended by the petitioner. It is also nowhere contention of respondents, that the respondent Nos. 3 and 4 failed to absorb any surplus teacher or the respondent No. 2 directed to absorb any surplus teacher during the said period. Vide the impugned order the period of appointment as Shikshan Sevak is being extended which could not have been done because, the petitioner was appointed as a Shikshan Sevak from 01.12.2011 to 30.11.2014. The said period cannot be extended by the authority vide the impugned order.

6. Considering the aforesaid conspectus of the matter, the impugned order is quashed and set aside. The Education Officer (Secondary) shall consider the proposal given to it and if it satisfies that the petitioner was appointed with effect from 01.12.2011 as a Shikshan Sevak, shall grant approval from the date of appointment. The writ petition accordingly disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]