

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 6067 OF 2014

Ku. Shobha d/o Mahadeorao Thorat

-Vrs.-

The State of Mah. Through its Secretary, Department of School Education,
Mantralaya, Mumbai and others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.
DATED : 9th OCTOBER, 2015

Heard advocate V.G. Bhamburkar for petitioner, Mrs. Hiwase, learned AGP for respondent nos. 1 to 3 and advocate J.B. Kasat for respondent no. 4. Nobody appears for respondent nos. 5 & 6 though they are served.

Petitioner is in employment as assistant teacher since November, 1994. Order refusing approval to her appointment passed on 9.6.2014 is questioned before this court.

Advocate Bhamburkar submits that reason that post held by petitioner is not sanctioned is incorrect. He further points out that though a period of three years was given initially on 11.7.2000, by a policy decision as contained in communication sent by State Government on 17.1.2011 the earlier conditions have been cancelled and untrained teacher like petitioner is given time till she passes D.Ed. Examination. It is further submitted that reason no. 3 about ban on sanction

to new post or approval to newly appointed teacher is again not applicable as petitioner holds very same post since 1994.

Advocate Kasat appearing for respondent no.4 is opposing the petition. He states that time limit has been imposed by G.R. dated 2.6.2000 and it has been extended only for those who could not succeed within stipulated time. He therefore submits that insistence is upon efforts made by petitioner during stipulated time. If such effort is not made, the time does not get extended.

Learned AGP supports arguments of advocate Kasat.

Petitioner is in service since 1994 as untrained teacher. Had she completed training within stipulated time, she could have been made a assistant teacher. Hence, the reasons given by respondent no. 4 that there is no sanction to a post or then new post cannot be created are totally irrelevant.

In so far as completion of D.Ed. Training while in service is concerned, petitioner has taken admission to that course in 2007-08 and completed it during the period 2007-08 to 2012-13. She has produced the certificate dated 20.8.2013 showing that she has cleared D.Ed. Examination.

Perusal of above mentioned government communication dated 17.1.2011 shows that the government has looked into the issue and then found it necessary to extend the number of opportunities. It found that sufficient number of opportunities were not made available to concerned teachers.

However, whether the said communication which remove the ceiling on number of opportunities shall apply to

the case of petitioner is a moot question. Considering the fact that petitioner has put in more than 21 years of service and has ultimately also succeeded in obtaining training qualification, we are inclined to direct respondent no. 4 to consider her entitlement and approval to her appointment in accordance with law.

We direct the petitioner to appear before respondent no. 4 on 30th October, 2015. The respondent no. 4 shall adjudicate afresh her entitlement in next three months. The respondent no. 4 shall also hear respondent nos. 5 & 6 managements while considering the claim of the petitioner. Only for said purpose, impugned communication dated 9.6.2014 is quashed and set aside.

Writ petition is thus partly allowed and disposed of.
No costs.

JUDGE

JUDGE

Hirekhan