

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

6 WRIT PETITION NO. 505 OF 2015

SHAHAJI EDUCATION SOCIETY, NANDED AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioners : Mr. S. R. Chaukidar h/for Mr.
Bali Harish S.

AGP for Respondents: Mrs. R. P. Gour

Advocate for Respondent No.2 :Mr. Yogesh Kshirsagar

Advocate for Respondent No.3 : Mr. V. S. Panpatte

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 22nd November, 2016

ORDER:

1. Mr. Chaukidar, the learned counsel for the petitioners states that Petitioner No.2 was working with the respondent Institution from 2009 on unaided post. Thereafter, after following due procedure, he was appointed as Shikshan Sevak on 11.02.2014 on aided post. The roster is approved by the B.C.Cell and the post on which petitioner No.1 was appointed is reserved for N.T. Category. Petitioner No.1 belongs to N.T. Category. The learned counsel further submits that as far as surplus candidates are concerned, the said issue would not be there now as many of the surplus employees are also accommodated. The learned Counsel further submits that the entire documents with regard to the advertisement and selection process were also filed

along with the proposal. The department has also prepared a note about the advertisement being given and the appointment is made on the vacant post as per the roster approved by the B.C.Cell. However, the same is also ignored by the Education officer while passing the impugned order, refusing to grant approval.

2. Mr. Panpatte, the learned counsel for respondent No.3 Institution supports the contention of the learned counsel for the petitioner.

3. Mr. Kshirsagar, the learned counsel for the Education Officer (Primary) submits that the advertisement was given in a hurried manner, there were surplus candidates to be appointed, roster was not approved by the B.C. Cell. The said documents were not filed. As such the order has been rightly passed.

4. It appears that the roster has been approved by the B.C. Cell. The documents to that effect is filed on record. The notings of the Department are also filed on record. As the post on which petitioner No.1 is appointed is a reserved post, ban on recruitment on the account of accommodating surplus candidate would not apply in view of the Government resolution dated 21.08.2013. The roster appears to

have been approved by the B.C. Cell. The Advertisement also has been given, as contended.

5. In light of above, the impugned order (Exh.H) is quashed and set aside.

6. The Education Officer (Primary) shall reconsider the proposal seeking approval to the appointment of the petitioner No.1 as Shikshan Sevak. The petitioner is at liberty to submit fresh documents. The Education Officer shall consider the same. The petitioner may appear before the Education officer alongwith available documents on 6th December, 2016. The Education officer shall consider all the documents i.e. approved roster of B.C.Cell and all other documents. The Education Officer shall not refuse to grant approval only on the ground that surplus candidates were required to be absorbed. The proposal shall be considered and decided expeditiously, preferably within a period of three months from the date of appearance.

7. Writ petition is accordingly disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC