

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

9 WRIT PETITION NO. 1596 OF 2015

VISHAL GOVINDRAO GAIKWAD PATIL  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. R. R. Suryawanshi  
AGP for Respondents State: Mr. V. H. Dighe  
Advocate for Respondents 4 and 5 : Mr. Kalyan V. Patil

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

**DATE : 29th August, 2016**

**ORDER:**

1. Mr. Suryawanshi, learned counsel for the petitioner states that the petitioner was appointed as Shikshan Sevak on 14.06.2010 pursuant to advertisement dated 26.04.2010. The proposal seeking approval to the appointment of the petitioner as Shikshan Sevak was forwarded on 31.08.2010 by respondent No.5 Management. However, on the same day, the Education Officer rejected the said proposal on the ground that backlog exists and the roster is not approved from the B.C. Cell.

2. The learned counsel submits that only four posts are meant for reserved category and there are total six

posts of Assistant teacher are vacant. Two posts are still meant for open category. The learned counsel submits that there was no impediment for the Education Officer to grant approval to the appointment of the Petitioner as Shikshan Sevak.

3. Mr. Kalyan Patil, the learned counsel for the respondent Institution submits that the roster is already submitted to the Education Officer who has in turn forwarded it to the B.C. Cell. As per the roster also, six posts of Assistant Teacher are vacant and four posts are only meant for reserved category and two posts are meant for open category.

4. Mr. Dighe, learned AGP submits that the State has also filed affidavit clearly stating that as the posts meant for reserved category and backlog are not filled in, approval is not granted to the person appointed from the open category.

5. We have considered the submissions.

6. It appears that the proposal seeking approval to the appointment of the petitioner is rejected solely on the ground that roster has not been approved from

the BC Cell. No doubt it is the duty of the Institute to get the roster approved from the BC Cell about the backlog. Now it is submitted that the said roster is already sent to the B.C. Cell for approval. The B.C. Cell shall pass orders with regard to the said roster expeditiously, preferably within four weeks from today. Learned AGP shall communicate the same to the B.C. Cell.

7. We quash and set aside the impugned order and direct the Education Officer to reconsider the proposal seeking approval to appointment of the petitioner as Shikshan Sevak per the roster forwarded to the B.C. Cell and if, as per the approved roster, one post is meant for open category, then shall consider the said proposal on its own merits and shall not reject it on the ground that backlog exists.

8. The respondent Institution shall also file affidavit with the Education Officer that further posts of the Assistant Teachers would be filled in from the reserved category.

9. We have passed this order directing the Education Officer to decide the proposal seeking

approval to the appointment of the petitioner as Shikshan Sevak, afresh on the basis of roster that may be approved by the B.C. Cell and if as per the roster the vacancy exists for open category also.

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

**(K. L. WADANE, J.)**

**(S. V. GANGAPURWALA, J. )**

JPC