

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

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

Court's or Judge's orders

WRIT PETITION NO. 2667 OF 2015

APARNA NISHIKANT DESHMUKH

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for petitioner : Mr. S.S. Jadhavar

A.G.P. for respondent/State : Mr. V.S. Badakh

Advocate for Respondent No.3 : Mr.S.R. Shirsath

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CORAM: S.S.SHINDE & SANGITRAO S. PATIL, JJ.

Dated: JULY 19, 2016

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Heard the learned counsel appearing
for the petitioner, the learned A.G.P.
appearing for the Respondent/State and
the learned counsel appearing for
Respondent No.3.

2. It appears that by the impugned
communication dated 17/18.12.2012, the
Education Officer refused to grant
approval to the appointment of the
petitioner on the ground that there are
surplus teachers on the Roll of the
Education Officer and the appointment of
the petitioner is from the open category,

and unless the surplus teachers are absorbed, no approval can be granted to the appointment of the petitioner.

3. The learned counsel appearing for the Respondent – School has tendered across the Bar the copy of the letter dated 7th May, 2012, written by the Management to the Education Officer (Primary), Zilla Parishad, Osmanabad, wherein the Management sought permission to fill up the posts of Shikshan Sevaks. Prima facie, it appears that the said letter was received by the office of the Education Officer. Therefore, it was incumbent upon the Education Officer to act upon the said letter and communicate the Management and to forward the names of the surplus teachers for absorption. It further appears that the advertisement was issued by the Management after one month from writing such letter and after advertising three posts of Shikshan Sevaks, after regular selection process, the petitioner and other two persons were appointed. There is no denial to the assertion of the petitioner in respect of those two employees who were appointed pursuant to the said advertisement that the approval is granted by the Respondent

– Education Officer to the appointment of those two employees by order dated 17th December, 2012.

4. In that view of the matter, the impugned communication is quashed and set aside. Respondent No.2 is directed to take fresh decision on the proposal of the petitioner for appointment as Shikshan Sevak, as expeditiously as possible, and preferably within four weeks from today. The Education Officer while taking such decision shall also consider the aspect that in case of other two employees already the approval is granted, though the said employees are appointed in pursuance of the same advertisement. However, we make it clear that while taking such decision afresh, the Education Officer shall not raise the same reasons, which are raised in the impugned communication and shall take the decision afresh on its own merits.

5. The Petition is allowed to the above extent.

(SANGITRAO S.PATIL,J)

(S.S. SHINDE,J)