

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

WRIT PETITION NO. 3918 OF 2016

Deepak Devidas Bhoi

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Amol Chalak, Advocate h/f Shri S. B. Talekar, Advocate for the Petitioner.

Mrs. P. V. Diggikar, A.G.P. for Respondent Nos. 1, 2 and 4.

Shri N. E. Deshmukh, Advocate for Respondent Nos. 5 and 6.

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

DATE : 24TH NOVEMBER, 2016.

PER COURT :

. Mr. Chalak, the learned counsel for the petitioner submits that, the petitioner was appointed on 07th January, 2013 as a Shikshan Sevak from N. T. category. According to the learned counsel, institution forwarded proposal seeking approval to the appointment of the petitioner. Under order dated 25.11.2013 some deficiencies were pointed out. The management cleared the said deficiencies, however, again on 01.09.2014 the said proposal was rejected on the ground that during the relevant period there was ban on recruitment and permission of the Education Officer was not sought. The learned counsel submits that, pursuant to

advertisement, the petitioner had appeared for the selection and was selected.

2. Mr. Deshmukh, the learned counsel for respondent Nos. 5 and 6 submits that on 21st December, 2012, the institution had intimated the Education Officer about existing vacancies. No response was received from the Education Officer. Thereafter advertisement was issued on 29.12.2012 and after conducting interviews and following due procedure, the petitioner was appointed on 07.01.2013. Till this date also Education Officer had not recommended any name of surplus candidate to the respondent/institution. The learned counsel submits that, procedure having been followed, proposal ought to have been allowed.

3. The learned Assistant Government Pleader states that, as appointment of the petitioner was during the ban period and without seeking permission of the Education officer the order has been rightly passed.

4. The letter is produced on record written by the institution to the Education Officer showing the vacancies available. Of course, the institution was required to wait for more time. However, on 29.12.2012 had issued advertisement inviting applications. Pursuant to same it appears that, the petitioner

applied and was selected. The petitioner was issued appointment order on 07.01.2013. The Government has relaxed the condition about ban on recruitment from reserved category candidates. The petitioner is appointed from reserved category. It appears that, till the date proposal was rejected the Education Officer had not recommended the absorption of any surplus candidate to the respondent/institution as contended by respondent Nos. 5 and 6.

5. Considering the above, the impugned order is quashed and set aside. The respondent No. 4/Education Officer shall reconsider the proposal seeking approval to the appointment of the petitioner on its own merits expeditiously and preferably within a period of six (06) months from today. The Education Officer shall not reject the said proposal only on the ground that the appointment of the petitioner was during the ban period and further that prior permission was not obtained. The writ petition is disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]