

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

WRIT PETITION NO. 7987 OF 2016

**SYEDA SHAHEDA BEGAM
VERSUS
THE DIRECTOR OF EDUCATION MAHARASHTRA STATE PUNE AND
OTHERS**

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Advocate for Petitioner : Shri Dhage Vivek J..
AGP for Respondents 1 and 3 : Shri S.P.Sonpawale.
Advocate for Respondent 2 : Shri A.R.Nikam.
Advocate for Respondents 5 and 6 : Shri S.G.Kawade.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 18th November, 2016

Per Court:

1 While considering the submissions of the Petitioner on
03.08.2016, this Court had passed the following order:-

- "1. *The petitioner is aggrieved by the judgment dated 16/04/2016 passed by the School Tribunal, Latur, by which Appeal No.15/2014, filed by the petitioner, has been dismissed.*
2. *Mr.Dhage, learned Advocate submits that a short issue is involved. The petitioner had exercised options for joining as "Primary Shikshan Sevak". She was selected and was appointed at Gavane, Tal.Lanja, Dist.Ratnagiri without she having opted for the same.*
3. *The petitioner had approached the Grievance Committee under the GR dated 16/12/2009. However, on account of transfer of all matters from the Grievance Committee to the School Tribunal, the Education Department was expected to come forward*

with a specific stand. However, no appearance was caused.

4. *Issue notice to the respondents, Nos. 1, 2, 3, 5 and 6, returnable on 30/08/2016. Learned AGP waives service for respondent Nos. 1, 2 and 3.*
5. *Respondent No.1 shall file an affidavit in reply stating the circumstances in which the petitioner was recommended for appointment under the Ratnagiri Zilla Parishad despite she having not opted for the said location."*

2 On 26.09.2016, when this matter was heard, the Petitioner had specifically made a statement that she was appointed to the Ratnagiri Zilla Parishad though she has not exercised this option and unless an option to join at a particular place as a Primary Shikshan Sevak was not exercised, the Petitioner could not have been appointed at Ratnagiri.

3 Respondent No.1 has filed an affidavit in reply dated 30.09.2016. The learned AGP points out from paragraph 10 that after Respondent No.2, which was the examining body, had conducted the concerned examinations for the recruitment of primary Shikshan Sevaks, the computerized merit list was prepared. Thereafter, Respondent No.1 resorted to draw of names system so as to grant posting to the candidates in the merit list at places for which the names are drawn. The Petitioner's name was drawn for employment with the Zilla Parishad at Ratnagiri and therefore, she was obliged to join at the said place. She was also given an

appointment order and was expected to report at Zilla Parishad, Ratnagiri.

4 The Petitioner has specifically stated in the petition that notwithstanding the fact that the Petitioner has not exercised any option for Ratnagiri and has exercised preferences for being deployed at Aurangabad, Jalna, Beed, Hingoli, Jalgaon, Washim, Satara and Solapur, it was revealed through the newspaper report that there were physical attacks on the candidates from Nanded district at Ratnagiri. The Petitioner contends that this had happened under the guidance of the MLA belonging to a particular political party and as such, agitation assumed a violent proportion at Ratnagiri. The Petitioner being a lady, could not have joined at Ratnagiri which is 700 kilometers away from Nanded district and therefore, the Petitioner has no option but to approach the Court.

5 In the above backdrop, the learned Advocate for the Petitioner, submits on instructions that rather than working in volatile situation at Ratnagiri which is 700 kilometers away from Nanded, her representation to the Honourable Minister for School Education dated 02.07.2011 may be considered and the Petitioner may be deployed at any place in the Marathwada region (eight districts) or to such places which have been marked as preferences by the Petitioner in her application form. There is no dispute that the merit list of such candidates has not been

scrapped.

6 The Petitioner has approached the School Tribunal in Appeal No.15/2014 contending that refusal to consider her representation and not allowing her to join at any other place, amounts to oral termination. By the impugned judgment, the appeal has been dismissed. In my view, it was a futile exercise on the part of the Petitioner in approaching the School Tribunal since the Respondents were not guilty of restraining her from joining at Gavane, Taluka Lanja, District Ratnagiri. Challenge to the appointment order and subsequent contentions of the Petitioner, were therefore, rightly negated. The Petitioner should have, therefore, approached the appropriate forum.

7 Shri Dhage, learned Advocate for the Petitioner, hastens to add that the Petitioner had approached the Grievance Committee formed by the State Government and on observations of the Honourable Supreme Court in some other proceedings, it was held that the Grievance Committee has no jurisdiction, that prompted the Petitioner to approach the School Tribunal.

8 Considering the above, this Writ Petition is partly allowed. The impugned judgment of the School Tribunal need not come in the way

of the Petitioner insofar as the consideration of her representation is concerned.

9 The Petitioner shall make a fresh representation to Respondent No.1 and the appropriate Committee of Respondent No.1 shall consider the said representation for deploying the Petitioner at any such place in the light of the preferences exercised by her and/or in any district in Marathwada region depending upon the requirement of the Primary Shikshan Sevaks. Such representation shall be made within FOUR WEEKS from today. Upon submission of the representation and on considering her serial number in the merit list of such candidates, Respondent No.1 shall consider the case of the Petitioner for deployment at an appropriate place.

kps

(RAVINDRA V. GHUGE, J.)