

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

WRIT PETITION NO.8893 OF 2015

Sushil s/o. Rangnath Waghmare,
Age : 26 Yrs., Occu.: Service,
R/o. : Siddharth Nagar, Chakur,
Tq. Chakur, Dist. : Latur. **PETITIONER**

VERSUS

- 1] The State of Maharashtra
Through its Principal Secretary,
School Education Department,
Mantralaya, Mumbai-32.
- 2] The Deputy Director of Education,
Latur Division, Latur.
- 3] The Education Officer [Primary],
Zilla Parishad, Latur.
- 4] The Ramgir Shikshan Prasarak
Mandal, Chapoli, Tq.Chakur,
Dist. Latur
Through its Secretary
- 5] The Head Master,
Swami Vivekanand Primary
Vidyamandir Chapoli,
Tq.Chakur, Dist. Latur **RESPONDENTS**

...

Mr. R.D.Biradar, Advocate for the Petitioner
Mr. B.V.Virdhe, AGP for Respondent – State
Mr. B.N.Bharaswadkar, Advocate for Respondent
Nos.4 and 5.

...

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

Reserved on : 16.04.2016
Pronounced on : 27.04.2016

JUDGMENT: [Per S.S.Shinde, J.]:

1] Heard.

2] Rule. Rule made returnable forthwith, and heard finally with the consent of the parties.

3] This Petition is filed aggrieved by the refusal to grant approval to the appointment of the petitioner to the post of Primary Teacher by respondent no.3.

4] The learned counsel appearing for the petitioner submits that the petitioner is appointed after following due procedure in the year 2011, and therefore, the reasons assigned in the impugned communication that, there is ban on recruitment from 2nd May, 2012 cannot be considered as a valid ground for

not granting approval to the appointment of the petitioner as Primary Teacher. The learned counsel appearing for the petitioner tendered across the bar the copy of Government Resolution dated 21st August, 2013, issued by the General Administration Department, Government of Maharashtra and submitted that, by way of the said Resolution, the Government of Maharashtra granted extension of time so as to fill up the post of Assistant Teacher from reserved category as a Special Drive. He submits that, the Government of Maharashtra initiated Special Drive with effect from 14th April, 2011 to fill up various posts in the Government employment from the candidates belonging to backward categories so as to clear the backlog, and by the said Government Resolution, further time was extended upto 31st March, 2014.

5] The learned counsel appearing for

the respective respondents, relying upon the letter written by respondent no. 3 i.e. the Education Officer [Primary], to respondent no.5 submit that, the appointment of the petitioner was during the period when ban was imposed by the Government of Maharashtra for new recruitment with a view to absorb 327 teachers, who were declared surplus.

6] We have considered the submissions of the learned counsel appearing for the parties, perused pleadings in the Petition, annexures thereto and the Government Resolution dated 21st August, 2013, issued by the General Administration Department, Government of Maharashtra. It reveals that the petitioner was appointed in the year 2011 after following due procedure so as to fill up the post of Primary Teacher from Scheduled Caste category. The Government of Maharashtra imposed ban on the new recruitment with

effect from 2nd May, 2012. As already observed, the petitioner was appointed in the year 2011, therefore, at the relevant time there was no ban for recruitment. In the Government Resolution dated 21st August, 2013, referred to above, it is clearly mentioned that, with effect from 14th April, 2011, Special Drive is taken to fill up the posts from the backward class categories. Therefore, the ban imposed by the State Government on new recruitment with effect from 2nd May, 2012, with a view to absorb surplus teachers, could not have been made applicable in the case of the present petitioner for two reasons, *firstly*, the petitioner's appointment was in the year 2011, and *secondly*, the appointment of the petitioner was from the SC category.

7] In the above circumstances, the reasons assigned by respondent no.3 for rejecting the proposal for approval to the

appointment of the petitioner cannot sustain. Therefore the communication dated 16.07.2015 issued by respondent no. 3 to respondent no.5 stands quashed and set aside. Respondent no. 3 is directed to reconsider the proposal for approval to the appointment of the petitioner to the post of Primary Teacher and take decision as expeditiously as possible, however, within six weeks from today. Respondent no. 3 shall not reject the proposal on the same grounds, which have been assigned in the communication dated 16.07.2015. Needless to observe that, in case respondent no. 3 takes decision to approve appointment of the petitioner, respondent no. 5 shall submit salary bills of the petitioner, if already not submitted, immediately within two weeks of granting such approval and on receipt of such salary bills, respondent no.3 shall take decision on it, keeping in view the procedure and relevant

Rules as expeditiously as possible, however, within four weeks from receiving such salary bills.

8] Rule made absolute on the above terms. Petition stands disposed of accordingly.

[SANGITRAO S.PATIL]
JUDGE

[S.S.SHINDE]
JUDGE