

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

**WRIT PETITION NO. 9497 OF 2015
WITH
CIVIL APPLICATION NO. 12012 OF 2015**

Satish Bhaurao Kale .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri K. J. Ghute Patil, Advocate h/f Ms Geeta S. Girwalkar,
Advocate for the Petitioner.

Shri M. B. Bharaswadkar, A.G.P. for the Respondent No. 1.

Shri D. S. Mali, Advocate for Respondent Nos. 2 and 3.

**CORAM : S. V. GANGAPURWALA
N. W. SAMBRE, JJ.**

DATE : 16TH SEPTEMBER, 2016.

PER COURT :

. The learned counsel for the petitioner states that, the petitioner is appointed on 15.06.2011. The approval was granted to the appointment of the petitioner as Assistant Teacher by the Education Officer vide order dated 07th August, 2012. The same was abruptly cancelled. This Court in Writ Petition No. 5486 of 2014 under order dated 08.10.2014 set aside order of cancellation of approval and directed rehearing. Pursuant thereto the Education Officer came to the conclusion that the earlier approval granted requires to be maintained. However, no benefit

of continuation is given to the petitioner, instead of the same during the pendency of the writ petition the Education Officer has again issued a notice thereby seeking re-enquiry in the matter. The same is illegal. The Government Resolution dated 02.05.2012 does not apply to the petitioner.

2. Mr. Mali, the learned counsel for the Education Officer submits that, while passing earlier order of the Education Officer retaining the approval, the G. R. dated 02.05.2012 was not considered. In view of the G. R. of 02.05.2012 there was ban on fresh recruitment. In view of the said G. R. fresh notice was issued to the petitioner.

3. We have heard the learned Assistant Government Pleader also.

4. When the appointment of the petitioner is made in the year 2011, the G. R. of the year 2012 would not apply to the appointment of the petitioner. The very basis of issuing fresh notice is erroneous. The Education Officer by rehearing has concluded that the order of approval granted to the petitioner on 07.08.2012 is legal and proper. There was no need to issue fresh notice on the ground of bar of recruitment on account of G. R. of the year 2012. As same would not be relevant in the case of the appointment of the petitioner made in May 2011. In the light of the above, the impugned notice dated 03.09.2015 is quashed and

set aside. The respondent No. 2 shall accord consequential benefits pursuant to the approval dated 07.08.2012 and confirm the petitioner as Shikshan Sevak and subsequently pay salary to the petitioner as would be admissible and permissible in law expeditiously and preferably within a period of six (06) months from today. The writ petition along with civil application stand allowed. No costs.

[N. W. SAMBRE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Sept. 16