

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

WRIT PETITION NO. 11459 OF 2015

Abhijit Bansilal Ghovle

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri S. S. Jadhavar, Advocate for the Petitioner.

Shri V. S. Badakh, A.G.P. for Respondent Nos. 1 to 3.

None present for the Respondent No. 4.

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

DATE : 28TH SEPTEMBER, 2016.

PER COURT :

. Heard the learned counsel for the respective parties. The proposal seeking approval to the appointment of the petitioner is rejected.

2. Mr. Jadhavar, the learned counsel for the petitioner submits that, the management had applied seeking permission for advertising the post. No response was received from the Education Officer. Thereafter advertisement was issued. The petitioner was appointed after following due selection process. According to the learned counsel, upon the information received under the Right to Information Act, it is communicated that, for

the academic year 2012-2013 not a single teacher was declared surplus in the secondary schools. The order rejecting the approval to the appointment of the petitioner on the count that, the post was filled in without seeking permission of the Education Officer is illegal.

3. The learned Assistant Government Pleader submits that, during the relevant period there was ban on the recruitment as per Government Resolution dated 06.02.2012. The order is rightly passed.

4. We have considered the submissions canvassed by learned counsel for respective parties. It has come on record and even the learned A. G. P. has confirmed that in the academic year 2012-2013 there was only one teacher in D. Ed. pay scale surplus and he was also absorbed and there was no surplus teacher during the said period.

5. The petitioner is appointed as a Shikshan Sevak vide appointment order dated 25.03.2013. The management has submitted proposal stating that the petitioner is appointed by following procedure of law. The management had given application, however, no response was received from the Education Officer. The purpose of seeking permission from the Education Officer before appointing a candidate is to see that, if

there are surplus candidates, the same are required to be absorbed. In the present matter, it has come on record that, during the said academic year 2012-2013 when the petitioner was appointed, there was not a single surplus teacher in the said pay scale available to be absorbed.

6. Considering the above, the impugned order is quashed and set aside. The respondent/Education Officer shall consider the said proposal seeking approval to the appointment of the petitioner afresh, in accordance with law and policy and shall not reject it on the ground that prior permission of Education department was not obtained before appointing the petitioner or that, there was ban on recruitment. The same be considered expeditiously and preferably within a period of four (04) months from today. The writ petition is disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]