

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7737 OF 2014

Kedar Bhalchandra Raut and Another. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. N. V. Bandiwadkar for the Petitioners.

Mr. Vikas Mali, learned AGP for the State.

Coram : SHANTANU KEMKAR &
RANJIT MORE, JJ.

Date : **April 27, 2016.**

P. C. :

1. **Rule.** Rule made returnable forthwith. By consent of the learned Counsel appearing for the respective parties, petition is forthwith taken up for final hearing.

2. Heard the learned Counsel appearing for the respective parties.

3 Petitioner No.1 was appointed on the post which has fallen vacant due to resignation tendered by one Mr. Sameer Pimpale. The appointment of Petitioner no.1 was made on the basis of advertisement issued on 16th July 2009. Thereafter for approval to the appointment of Petitioner No.1, Petitioner No.2 made correspondence with the Education Officer, Thane.

However, for one or another reason, the approval was not granted and in the last it was stated that the appointment of Petitioner No.1 was not made by following the roster. Learned Counsel appearing for the Petitioner submits that in fact there are only four posts of non teaching cadre and out of which three are already occupied by the backward class candidates and as such the roster was duly followed. He further submitted that on the contrary the reservation has exceeded.

4. Mr. Mali, learned AGP for the State submits that after the formation of Palghar District, the Education Officer, Palghar has not received any papers from the Education Officer, Thane concerning the Petitioner's appointment. He, however, submits that Education Officer, Palghar shall consider the matter afresh, uninfluenced by the earlier decision by the Education Officer, Thane and pass reasoned order. He also submits that Education Officer, Palghar shall collect the relevant records from the Education Officer, Thane. Learned Counsel appearing for the Petitioner submits that he will also submit all the relevant papers along with his fresh representation before the Education Officer, Palghar within two weeks from today. On receipt of the same,

Education Officer, Palghar shall decide the Petitioner's claim for approval in accordance with law keeping in view all the requisite papers and take appropriate decision within six weeks, uninfluenced by the earlier decision rejecting approval to the appointment of Petitioner no.1.

5. Needless to state that the position as was existing on the date of appointment of Petitioner No.1 has to be taken into consideration by the Education Officer, Palghar.

[RANJIT MORE, J.]

[SHANTANU KEMKAR, J.]