

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**WRIT PETITION NO. 2529 OF 2003**

Smt. Laxmi d/o Tulshiram Bansode, **Petitioner**  
Aged 30 Years, Occupation Service,  
as an Assistant / Arts Teacher in  
Dnyan Vikas Nivasi Apang Vidyalaya,  
Udgir, District Latur, Resident of  
Sanjay Nagar, Somnathpur, Udgir,  
Taluka Udgir, District Latur

**V E R S U S**

- |   |                                                                                                                                                                     |                    |
|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 1 | The State of Maharashtra                                                                                                                                            | <b>Respondents</b> |
| 2 | The District Social Welfare Officer, Zilla Parishad, Group-A, Latur, Taluka and District Latur                                                                      |                    |
| 3 | The Additional Chief Executive Officer, Zilla Parishad, Latur, District Latur                                                                                       |                    |
| 4 | Anantpal Shikshan Sanstha, Udgir, District Latur, Through it's Secretary                                                                                            |                    |
| 5 | Rajendra s/o Yadavrao Markhele, Aged 32 Years, Occupation Service, Resident of Dnyan Vikas Nivasi Apang Vidyalaya, Vikas Nagar, Degloor Road, Udgir, District Latur |                    |

Mr. P.G. Rodge, Advocate for the Petitioner

Mrs. M.B. Bharaswadkar, A.G.P. for

Respondent Nos. 1 and 2/State

None present for Respondent Nos. 3, 4 & 5

**CORAM : S.V.GANGAPURWALA &  
SANGITRAO S. PATIL, JJ.**

**DATE : 3RD FEBRUARY, 2017**

**ORAL JUDGMENT (PER : S.V. GANGAPURWALA,J.) :**

1. Heard the learned counsel for the petitioner and the learned A.G.P., for respondents / State.

2. Mr. P.G. Rodge, learned counsel for the petitioner states that the petitioner was appointed as Arts Teacher with respondent no. 4. Initially the approval was granted to her appointment. Subsequently, vide impugned order, the approval was refused to the appointment of the petitioner on the ground that one Rajendra s/o Yadavrao Markhele i.e. respondent no. 5 was appointed on the said post and working as such. Learned counsel for the petitioner submits that the said post was reserved for the

candidate belonging to Scheduled Caste. The petitioner belongs to Scheduled Caste. Five posts were reserved for open category candidates. Even in the present Writ Petition, according to the learned counsel for the petitioner, interim relief in terms of prayer clause (F) is operating in favour of the petitioner, by which the respondents are restrained from terminating the services of the petitioner.

3. Learned A.G.P. for respondent nos. 1 and 2 submits that in fact respondent no. 4 – Institution is closed. There were nine sanctioned posts. The name of the petitioner was not included against those nine sanctioned posts.

4. We have considered the submissions advanced on behalf of the petitioner and the learned A.G.P.. It is not in dispute that the initial appointment of the petitioner was for one year. However, as per the impugned order, the proposal, seeking approval to the appointment of the petitioner was refused. This Court, on 28<sup>th</sup> April, 2004, had admitted the Writ

Petition and granted Ad-interim relief in terms of prayer clause (F). Prayer Clause (F) reads as under :-

"Pending the hearing and final disposal of this writ petition by issuing an appropriate order or direction the respondent nos. 2 to 4 be directed not to terminate the services of the petitioner on the basis of refusal of approval dated 17/3/2003 by the respondent no.3 as a Arts Teacher."

It would thus appear that in view of the impugned order, the respondents were restrained from terminating the services of the petitioner on the basis of refusal of approval dated 17.03.2003.

5. Respondent no. 4 - Anantpal Shikshan Sanstha filed the affidavit of the Secretary. The recognition of the School has not been renewed. In the circumstances, no purpose would be served by entertaining the petition in respect of appointment of respondent no. 5, as the respondent no. 4 itself is

closed down. Considering the interim order passed by this Court, we pass the following order :-

**O R D E R**

1. The respondent nos. 2 and 3 shall declare the petitioner as surplus employee, as per the Scheme that may be operative and is permissible for declaring her as surplus and absorb her in any other Institution. The petitioner shall be paid salary from the date on which he would be absorbed in other Institution. However, for the purpose of continuation, her earlier services shall be considered.
2. Rule is made absolute in above terms. No costs.

( **SANGITRAO S. PATIL, J.** )      ( **S.V. GANGAPURWALA, J.** )

