

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

WRIT PETITION NO. 1863 OF 2017

**AMRAPALI VITHALRAO LOHAKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

--

Mr.V.S.Panpatte, Advocate for petitioners
Mr.S.B.Pulkundwar, AGP for respondent nos.1 to 3
Mr.I.D.Maniyar, Advocate for respondent nos.4 and 5

--

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

DATE : APRIL 07, 2017

ORDER :

The learned Counsel for the petitioner submits that the proposal seeking approval to the appointment of the petitioner is rejected by Education Officer solely on the ground that surplus teachers were not accommodated and as per the Government Resolution, the Institution is required to absorb the surplus teachers.

2. According to the petitioner, the Institution had submitted an application on 21.11.2011 to the Education Officer seeking

permission to advertise the vacant posts, however, no communication was received by the said Institution and thereafter, on 10.02.2012 an advertisement was issued for filling-in the said post. A corrigendum was also issued on 11.02.2012 in respect of the said advertisement. He submits that after following the due selection process, the petitioner was appointed on 21.02.2012.

3. The learned AGP submits that there were large number of surplus teachers to be absorbed. The petitioner should not have been appointed by the Institution without the surplus teachers being absorbed.

4. It appears that the Institution had submitted the application on 21.11.2011 to the Education Officer seeking permission to advertise the vacant posts. The affidavit-in-reply filed by respondent no.2 does not state about the said application. The said application of the Institution

is said to have been received in the office of the Education Officer on 25.11.2011. At the relevant time when the petitioner was appointed, there was no ban on recruitment. The Government Resolution dated 02.05.2012 relied on by the respondent was issued subsequently.

5. In view of the above, the impugned order is quashed and set aside. Respondent no.3 – Education Officer shall decide the proposal forwarded by the Institution seeking approval to the appointment of the petitioner afresh, in accordance with law and shall not reject the same on the grounds on which the impugned order has been passed. The proposal be decided expeditiously and preferably, within a period of four months from today.

6. With these directions, the Writ Petition stands disposed of. No costs.

[SANGITRAO S. PATIL, J.] [S.V. GANGAPURWALA, J.]

kbp