

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

WRIT PETITION NO. 1968 OF 2016

Manjushri Abhimanyu Gaikwad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri V. S. Panpatte, Advocate for the Petitioner.

Shri P. S. Patil, Addl.G.P. for the Respondent No. 1.

Shri D. S. Mali, Advocate for the Respondent No. 2.

Shri V. P. Golewar, Advocate h/f Shri L. S. Shaikh, Advocate for Respondent Nos. 3 and 4.

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

DATE : 26TH SEPTEMBER, 2017.

FINAL ORDER :

. We have heard Mr. Panpatte, the learned counsel for the petitioner, Mr. Mali, the learned counsel for the respondent No. 2 and the learned counsel for respondent Nos. 3 and 4.

2. The petitioner is stated to have been appointed pursuant to the appointment order dated 27.07.2013 with effect from 01.08.2013. The proposal seeking approval to the appointment of the petitioner as Shikshan Sevak is forwarded to the respondent No. 2. The said proposal is rejected. According to the learned counsel, the petitioner is appointed from the Scheduled Caste

category on a clear vacant post. The institution had sought permission to advertise the post and after filling in application pursuant to advertisement, the petitioner is selected. The learned counsel submits that, the ban on recruitment as per the Government Resolution of the year 2012 would not apply to the reserved category candidates, as the State had permitted to fill in reserved posts. On the said ground the proposal is rejected.

3. Mr. Mali, the learned counsel submits that, from the S. C. category also there are fourteen assistant teachers surplus, who are required to be absorbed from the year 2012-2013 and 2013-2014 and in the year 2013-2014 additional seven assistant teachers from S.C. category are surplus, who are required to be absorbed. The permission is not obtained by the institution for filling in said post. Considering all these aspects, the Education Officer has rightly passed the order.

4. The learned counsel for the institution submits that, institution before filling in the post had applied to the Education Officer seeking permission. Thereafter the posts are advertised and by following due selection process the petitioner has been appointed from the S.C. category.

5. The contention of the petitioner is that, the petitioner is appointed from reserved category that is S.C. category. The

Government had allowed filling in the posts of reserved category candidates as a special drive to fill in the backlog. It is held by this Court in its earlier orders in Writ Petition No. 10580 of 2015 with other connected writ petitions decided on 09th March, 2017 that the ban on recruitment to fill in reserved category posts would not apply.

6. It is also a fact that, Education Officer has not directed the management in all these years to absorb surplus candidates from the S.C. category.

7. Considering the above, the impugned order is quashed and set aside. The Education Officer shall decide the proposal seeking approval to the appointment of the petitioner afresh and shall not reject on the ground that prior permission was not obtained or that there are surplus candidates to be absorbed or that procedure was not followed. The same shall be done expeditiously and preferably within a period of three (03) months from today. The writ petition is accordingly disposed of. No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]