

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2558 OF 2015

Mahesh Kanchayya Bandelwar

Petitioner

V E R S U S

The State of Maharashtra and
others

Respondents

*Mr. A.N. Sabnis, Advocate, holding for
Mr.V.D. Gunale, Advocate for the petitioner
Mr. A.P. Basarkar, A.G.P. for the respondent Nos.1 to 5
Mr. Mane, Advocate for respondent No.7*

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

DATE : 11th APRIL, 2017

PER COURT :

Heard.

2. Mr.Sabnis, learned counsel for the petitioner states that the petitioner was appointed as an Assistant Teacher in the year 2008. The petitioner possessed qualification of H.S.C. The learned counsel submits that the proposal seeking approval to the appointment of the petitioner was initially rejected

in the year 2009, and subsequently in the year 2012, the proposal seeking permission for postal D.Ed. is rejected on the ground that the appointment of the petitioner is not approved, whereas, the proposal for approval is rejected on the ground that the petitioner does not possess D.Ed. qualification. Learned counsel submits that the petitioner's proposal can be considered as an untrained teacher and he be permitted to complete postal D.Ed. course.

3. The learned A.G.P. submits that the untrained teachers can be appointed only when trained teachers are not available. There is nothing on record to show that the trained teachers were not available. The approval is rejected in the year 2009 and again it was rejected in the year 2012.

4. The respondent Nos.6 and 7 do not dispute that the petitioner has been appointed as an Assistant Teacher in the year 2008. It is a fact that the petitioner does not possess B.A. or D.Ed. qualification and will have to be considered as an

untrained teacher. It is submitted that the petitioner is appointed from S.T. Category. The proposal of the petitioner could have been considered as an untrained teacher as the said post is available from S.T. Category.

5. Considering the above, we pass the following order :-

O R D E R

- (A) The impugned orders rejecting the proposal for grant of approval to the appointment of the petitioner, are quashed and set aside.
- (B) The Education Officer shall consider the proposal seeking approval to the appointment of the petitioner as that of an untrained teacher and shall pass the order afresh within four months from today.
- (C) Upon passing the orders on the proposal seeking approval to the appointment of the petitioner, the Education Officer shall decide afresh the proposal of the petitioner

seeking permission for permitting to prosecute the postal D.Ed. course. The same shall be considered on its own merits expeditiously.

(D) If the Education Officer decides to grant approval to the appointment of the petitioner as an untrained teacher, we make it clear that the petitioner would not be entitled for the salary from the State till the period the proposal for approval is decided.

(E) Writ Petition is accordingly disposed of. No costs.

(SANGITRAO S. PATIL, J.)

(S.V. GANGAPURWALA, J.)