

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

WRIT PETITION NO. 4473 OF 2011

Narayan s/o Ramchandra Ghadage ...Petitioner

VERSUS

The State of Maharashtra
and others ...Respondents

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Shri S.S.Jadhavar, advocate for the petitioner
Smt. Vaishali Patil, A.G.P. for respondent nos. 1
and 2

None for respondent nos. 3 and 4

.....

CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 25th JANUARY, 2017

O R D E R :

Mr. Jadhavar, learned counsel for the petitioner submits that the petitioner was appointed in the year 2005 as a Shikshan Sevak in clear vacant post after following due selection process. Thereafter he has been granted permanency and continuance in service as an Assistant Teacher. The petitioner's appointment as Shikshan Sevak and subsequent continuation as

Assistant Teacher has been approved by the Education Officer. After lapse of six years, abruptly without notice to the petitioner, approval granted to the petitioner has been cancelled on the ground that the backlog from Scheduled Tribe category was not filled in. The learned counsel submits that in the year 2005 when the petitioner was appointed the reservation was to the extent of 34 per cent and not 52 per cent. The said aspect is also not considered.

2. The learned A.G.P. states that as there was backlog of the Scheduled Tribe category and the petitioner belongs to open category, the Deputy Director of Education directed the office to cancel the approval. The order is correctly passed.

3. We have considered the submissions. It is not disputed that the petitioner was appointed in February, 2005. His appointment was approved. So also his continuation as an Assistant Teacher is

approved. The impugned order is passed cancelling the said approval after six years without notice to the petitioner and without hearing the petitioner.

4. The Education Officer needs to consider that when the petitioner was appointed in the year 2005 the permissible reservation was 34 per cent and the post meant for a particular category would have to be considered by applying reservation of 34 per cent and not 52 per cent. Moreover, the order is also passed without notice to the petitioner. When the order adverse to the interest of the party is passed, the minimum requirements of adherence to the principles of natural justice are required to be followed.

5. In the light of above, the impugned order is quashed and set aside. The Education Officer shall, after hearing the petitioner, consider the aspect of approval afresh, so also considering the applicable reservation as 34 per cent when the

petitioner was appointed. The petitioner may also put forth the roster which was approved by the B.C. cell or such other authority before the Education Officer which would be considered by the Education Officer.

6. Writ Petition accordingly disposed of.
No costs.

(K.L.WADANE, J.)

(S.V.GANGAPURWALA, J.)

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