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

WRIT PETITION NO.5017 OF 2016

Sambhaji s/o Bhanudas Surve,
Age : 35 years, Occu. Service,
R/o Jawale Kadlag, Tq. Sangamner,
Dist. Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Principal Secretary
to School Education Department,
Mantralaya, Mumbai – 32
2. Education Officer (Secondary),
Zilla Parishad, Ahmednagar
3. Maharashtra Shikshan Sanstha,
NimgaonJali, A/P Nimgaon Jali,
Tq. Sangamner, Dist. Ahmednagar,
through its President/Secretary ..RESPONDENTS

Mr S.T. Shelke, Advocate for petitioner;
Mrs V.N. Patil-Jadhav, AGP for respondents no.1 & 2;
Mr S.S. Wagh, Advocate for respondent no.3

**CORAM : SHANTANU S. KEMKAR &
N.W. SAMBRE, JJ.**

DATE : 7th August, 2017

P.C.

Feeling aggrieved by the order dated 2nd February, 2015, passed by respondent no.2 rejecting the proposal submitted by respondent no.3 for grant of approval to the petitioner's appointment on the post of Junior Clerk, the petitioner has filed this petition.

(2)

2. According to the petitioner, his appointment was made on 28th February, 2010 (Exh.B) after the approval granted on 16th February, 2009 for advertising the vacancy by respondent no.2. The grievance of the petitioner is that the impugned rejection of the approval on the ground that the reserved posts were not filled up is unsustainable in view of the fact that when the petitioner was appointed there was no reservation of post and the roster point was examined and also certified only on 29th June, 2011.

3. Respondent no.3 has filed reply and given an undertaking to the effect that as the roster has been examined only on 20th June, 2011, they will fill up the posts reserved for Scheduled Castes and Scheduled Tribes, after the ban for making fresh appointment is removed.

4. In view of the aforesaid stand being taken by the third respondent and having regard to the fact that the question involved in this petition has already been decided by various Division Benches including in the case of **Namita Narayan Jha vs. Education Officer (Secondary), Zilla Parishad, Gondia & ors.**, reported in **2014 (3) Mh.L.J. 680**, we are of the view that the impugned order cannot be sustained and the same deserves to be and is hereby quashed.

5. As a result, the respondent no.2 is directed to grant approval to the petitioner's appointment as Junior Clerk from the date of appointment. Consequential benefits, as may be permissible, be also extended in favour

(3)

of the petitioner. Let this order be complied with within two months. The management is also directed to take necessary follow up action immediately.

6. With the aforesaid directions, petition is disposed of.

(N.W. SAMBRE, J.)

(SHANTANU S. KEMKAR, J.)

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