

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

WRIT PETITION NO. 7966 OF 2016

Sunanda Madhavrao Biradar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri H. B. Nandagavale, Advocate for the Petitioner.

Shri K. D. Mundhe, A.G.P. for Respondent Nos. 1 to 3.

Shri R. K. Ashtekar, Advocate for the Respondent No. 5.

**CORAM : S. V. GANGAPURWALA AND
S. M. GAVHANE, JJ.**

DATE : 29TH NOVEMBER, 2017.

FINAL ORDER :

. Mr. Nandagawale, the learned advocate for the petitioner submits that, the petitioner is working with the respondent No. 5/School since the year 1994. The petitioner was terminated. The petitioner filed appeal before the School Tribunal. In the said appeal matter was compromised. According to the learned counsel, the petitioner though was appointed as full time teacher and work load was available, still she was paid emoluments as part time teacher. The post is also available for Marathi subject on retirement of one teacher in the year 2014.

2. Mr. Ashtekar, the learned advocate for the respondent No.

5 submits that, every year proposal seeking approval to the appointment of the petitioner as part time teacher is sent and approval is granted on clock hour basis. The post which has become vacant belongs to the Scheduled Tribe category candidate. The petitioner is from open category, as such cannot be considered.

3. We have also heard the learned Assistant Government Pleader for respondents/State.

4. We have seen the orders of approval granted to the petitioner every year since the year 2005. The approval is granted on clock hour basis. The petitioner belongs to open category, certainly cannot be accommodated against S. T. category post.

5. It is submitted that, the management has already forwarded proposal seeking approval to the appointment of the petitioner for the subsequent years and the said proposal is still pending. The Education Officer (Secondary) shall decide the proposal forwarded by the management seeking approval to the appointment of the petitioner on its own merits, in accordance with law, expeditiously and preferably within a period of four (04) months from today.

6. In case, the post becomes available for the open category candidate for which the petitioner would be eligible, then the respondent/institution shall consider the petitioner for the said post. The writ petition is disposed of. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Nov. 17