

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

WRIT PETITION NO. 8716 OF 2017

KAGZI GAMER ILYZ RIYAZ AHMED
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr.Panpatte V.S.
AGP for Respondent/State: Mr.S.W. Munde.
Advocate for R.No.5 : Mr. Venjane Tukaram M.

...
CORAM : S.V.GANGAPURWALA & V.L. ACHLIYA, JJ.
Dated: DECEMBER, 18, 2017

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PER COURT:

The petitioner is appointed as Shikshan Sevak on 10th December, 2012. The appointment of the petitioner as Shikshan Sevak is approved on 11.1.2013 by the Education Officer. The proposal is submitted seeking permanent approval. No decision is taken on it.

2. Mr.Panpatte, learned Advocate for the petitioner submits that the petitioner is appointed in respondent No.5 school. Respondent No.5 is a minority institution. The proper procedure was followed while appointing the petitioner.

The ban on recruitment would not apply as the respondent No.5 is a minority institution.

3. Mr.Munde, learned AGP submits that the committee constituted found that there is irregularity in the appointments of many persons and the name of the petitioner was also included in the list of persons appointed wherein irregularity is observed.

4. It appears that respondent No.5 is a minority institution and is recognized as such. The letter dated 20th September, 1990 was issued by the Deputy Director of Education.

5. The Government Resolution dated 13th July, 2016 also states that if the minority institution is not inclined to absorb the surplus candidates, then the said institution cannot be compelled and such minority institution is excluded from Clause 5. Even clause 5 of the said Government Resolution says that the absorption can be only on willingness of the minority institution.

6. It is not disputed that the

appointment of the petitioner as Shikshan Sevak has been approved by the Education Officer in an order dated 11.1.2013

7. Considering the above, respondent Education Officer shall decide the proposal seeking permanent approval to the appointment of the petitioner as Assistant Teacher expeditiously, preferably within a period of three months. The proposal shall not be rejected on the ground that at the relevant time, there was ban on the recruitment or surplus candidates were required to be absorbed. Simultaneously, along with decision on the proposal, the Education Officer shall also take decision on the salary bills submitted. The writ petition stands disposed of accordingly. No costs.

(V.L.ACHLIYA, J) (S.V.GANGAPURWALA, J)