

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7914 OF 2016

Vithal Sambhaji Narwade

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri U.R. Aute h/f Talekar and Associates.

Shri S. W. Mundhe, A.G.P. for Respondent Nos. 1 and 2.

Shri Nitin S. Kadam, Advocate for the Respondent No. 3.

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

DATE : 13th November, 2017

PER COURT :

1. The proposal seeking approval to the appointment of petitioner is rejected.
2. We have heard Mr. Aute, learned counsel for the petitioner and Mr. Kadam, the learned advocate for the Education Officer.
3. It is submitted that the Management sought No Objection Certificate from respondent No. 3 - Education Officer on 21.7.2011. On not receiving any response, advertisement was published in August - 2011. In the advertisement it is stated

that one post is meant for V.J.-A category and two posts are meant for open category. The petitioner is from open category. The proposal for approval is rejected basically on the ground that roster is not verified. There is a backlog. The procedure as laid down is not followed and surplus candidates are required to be absorbed.

4. The appointment of the petitioner is dated 29.8.2011 i.e. prior to the Government Resolution dated 2nd May, 2012, imposing ban on recruitment. As such, the same would not apply to the petitioner. The Education Officer was required to consider the verified roster. It appears that the roster has been verified subsequently. On the date the order was passed the approved roster was available to the Education officer, the same ought to have been considered. It also does not appear that the Education Officer had directed any surplus candidate to be absorbed in respondent - Institution and that the respondent - Institution had not abided by the same.

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

ORDER

I] The impugned order is quashed and set aside.

II] The Education Officer shall consider the approved roster and if the post is available for open category, shall consider grant of approval to the petitioner after getting

satisfied about the selection process. He shall not reject it on the ground of ban on recruitment or the availability of the surplus candidates or that the permission was not obtained.

III] The petitioner shall appear before the Education Officer on 28th November, 2017, and shall bring it to the notice of the Education Officer the approved roster.

IV] The Education Officer shall thereafter decide it within two (2) months.

6. The writ petition is accordingly disposed of. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

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