

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7909 OF 2016

Gajanan Shivaji Kadam

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri U. R. Aute h/f Talekar and Associates, Advocate for the Petitioner.

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

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

Shri Shivaji K. Naikwade, Advocate for Respondent Nos. 4 and 5.

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

DATE : 13th November, 2017

PER COURT :

1. The proposal seeking approval to the appointment of the petitioner is rejected.
2. We have heard Mr. Aute, learned counsel for the petitioner and Mr. Kadam, learned counsel for the Education Officer.
3. It is submitted that the roster has been forwarded to the Education Officer for approval on 26.10.2017. It is further stated that the said roster will have to be approved by the Competent Authority.

4. It is stated that the respondent Nos. 4 and 5 sought No Objection from the Education Officer for filling in the post on 27.12.2010. On not getting any response advertisement was published on 23.1.2011. The appointment order came to be issued to the petitioner on 1st February, 2011. As the appointment is before 2.5.2012, the ban on recruitment could not apply. It is also nobody's case that the Education Officer has forwarded some surplus candidates to be absorbed with respondent – Institution and that respondent – Institution did not comply with the same.

5. Considering the fact that roster is yet to be verified, we pass the following order.

ORDER

- I] The impugned order is quashed and set aside.
- II] The roster shall be forwarded to the Competent Authority within a period of two (2) weeks.
- III] The Competent Authority shall verify the roster and pass order upon the said roster within two (2) months.
- IV] On the roster being verified the Education officer shall consider the proposal seeking approval to the appointment of the petitioner on its own merits, expeditiously and preferably within a period of two (2) months from the date of receipt of approved roster.

V] The Education Officer shall not reject the proposal for approval on the ground that permission from Education Officer was not obtained or that there was ban on recruitment or that surplus candidates were required to be absorbed and shall also consider whether the post was available for open category, as per the approved roster

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

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

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