

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8078 OF 2016

Madhav s/o Gangadhar Metewad
age 26 years, occ. Service as
Assistant Teacher
r/o Galli No. 5, Pundlik nagar
Auragnabad,
Tq. & Dist. Aurangabad

Petitioner

Versus

1. The State of Maharashtra
through Secretary
School Education and Sports Department,
Mantralaya, Mumbai 32.
2. Deputy Director of Education
Aurangabad Region, Aurangabad
3. Education Officer (Secondary)
Zilla Parishad, Aurangabad.
4. The Headmaster
New High School Dawarwadi
Tq. Paithan, Dist. Aurangabad.
5. The President/Secretary
Marathwada Shikshan Prasarak Mandal
Aurangabad
Dist. Aurangabad

Respondents

Mr. V.S. Panpatte, advocate for the petitioner.
Mr. A.R. Borulkar. AGP for Respondents 1 to 3.
Mr. B.B. Bhise, advocate for respondent no. 4.
Mr. D.J. Choudhary, advocate for respondent no. 5.

CORAM : R.M.BORDE &

P. R. BORA, JJ.

DATE : 24th MARCH, 2017

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Rule. Rule made returnable forthwith.
2. Heard finally by consent of learned counsel for the respective parties.
3. Petitioner is objecting to the order passed by respondent Education Officer refusing to accord approval to the appointment of petitioner on the ground that appointment has been made by the management in violation of the policy of the Government declared on 05.10.2011. It is also recorded in the order impugned in the petition that there are 17 surplus teachers available and as such, request made by the institution for according approval to the appointment of petitioner cannot be considered.
4. It is the contention of petitioner that his appointment is made in observance of the procedure prescribed by the education department. Our attention is invited to the communication dated 29.06.2012 issued by the Education Officer (Secondary), Zilla Parishad, Aurangabad, permitting the management to fill in 12 vacancies of teachers from Scheduled Caste category. The appointment appears to have been made during implementation of the special drive of filling up of the vacancies prescribed for backward category. There does not appear to be any dispute that the procedure for making appointment has been observed. The general instructions issued on 05.10.2011 cannot be made applicable for filling up the vacancies prescribed for reserved category and for taking up special drive for filling such vacancies.
5. In this view of the matter, the impugned order dated

02.01.2016 passed by the Education Officer does not appear to be sustainable. In the result, writ petition is allowed. Order passed by the Education Officer on 02.01.2016 refusing to accord approval to the appointment of petitioner is quashed and set aside. Education Officer is directed to re-consider the proposal for according approval to the appointment of petitioner as expeditiously as possible preferably within a period of three months from today and, it is accordingly directed. The Education Officer shall not reject the proposal merely on the ground that surplus candidates are required to be absorbed. Rule made absolute to the extent specified above. No costs.

(P. R. BORA)
JUDGE

(R.M.BORDE)
JUDGE

dyb