

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

BENCH AT AURANGABAD.

WRIT PETITION NO.9471 OF 2016

Smt.Sulbha D/o Kamlakar Pandit... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...
WITH

**WRIT PETITION NO.9472 OF 2016
WRIT PETITION NO.9473 OF 2016
WRIT PETITION NO.9476 OF 2016**

...
Mr.D.J.Choudhari, advocate for the petitioners.
Mr.S.G.Karlekar, A.G.P. for the State.
Mr.S.V.Warad, advocate for Respondent Nos.4 and
5.

...

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

Date : 05.12.2017.

PER COURT :

1. Mr.Choudhari, learned counsel for the petitioners submits that the petitioners are appointed after following due selection process and compliance of all the relevant Rules. The petitioners are appointed in the year 2010 and 2011. According the learned counsel, the

proposal seeking approval to the appointment of the petitioners was submitted by the Management to the Education Officer. The Education Officer initially granted approval to the appointment of petitioners as Shikshan Sevak for a period of three (3) years and thereafter rejected the approval to the appointment of petitioners as Assistant Teachers only on the ground that the additional posts are not sanctioned. Learned counsel submits that the said posts are admissible. According to the learned counsel, even otherwise in the year 2014-15 and 2016, eight posts have become vacant because of the retirement of the employees. The petitioners can be accommodated on the posts which have become vacant for the present. Two of the petitioners are appointed from OBC and two from open category and as per approved roster, the posts are available for these categories.

2. Learned A.G.P. submits that unless and until the Government sanctions the additional posts, no appointment could have been made on the additional posts. Even the Management and the

petitioners misrepresented about the roster while submitting the proposal. The roster has not been verified.

3. It is not disputed that the appointment of the petitioners as Shikshan Sevak has been approved by the Education Officer. Of-course, the same was on honorarium. The proposal seeking approval to the appointment of the petitioners as Assistant Teachers is rejected solely on the ground that the additional posts are not sanctioned by the Government.

4. Certainly unless and until the posts are sanctioned by the Government, the case of the petitioners can not be considered on the additional posts. It is submitted that about eight Assistant Teachers have retired and their posts have become vacant. Two of the Assistant Teachers were from OBC and two from open and the petitioners can be considered from the said posts from the date of retirement of the said teachers. The Management may submit the proposal to that effect with the Education Officer. The

Education Officer shall after verifying the roster and the availability of the vacant posts on account of the retirement of the teachers and also as per the staffing pattern consider the said proposal seeking approval to the appointment of the petitioners as Assistant Teachers on and from the date of retirement of those teachers on its own merits expeditiously, preferably within a period of four (4) months. In case the additional posts are sanctioned then the petitioners may raise their grievance with regard to the approval on the said posts.

5. The Writ Petitions are disposed of. No costs.

(S.M.GAVHANE, J.)

(S.V.GANGAPURWALA, J.)

