

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

86 WRIT PETITION NO. 10361 OF 2015

UTTAM SUBHASH GADAKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Kakade Amol N .
AGP for Respondents State: Mrs. V. H. Patil
Advocate for Respondents 3 and 4 : Taur Mahesh S

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 7th March, 2017

ORDER:

1. The proposal seeking approval to the appointment of the petitioner as Shikshan Sevak is rejected. Aggrieved thereby, the present writ petition.

2. Mr. Kakade, learned counsel for the petitioner submits that the petitioner was appointed as Shikshan Sevak on 08.12.2012 pursuant to the advertisement dated 01.09.2012 by following proper procedure. Only on the basis of some complaint by stranger, the proposal of the petitioner is rejected on the ground that the petitioner was appointed during the ban period. The learned counsel submits that the petitioner was appointed from OBC category. Even advertisement states that posts from OBC category is to be filled in. At the relevant time, the Government issued orders for filling

in the backlog and for the same, the ban on recruitment may not apply. The learned counsel relied on the Government resolutions dated 2nd August, 2011 and 10th April, 2012.

3. The learned AGP submits that the said resolutions would not be applicable as the same are not issued by the Education Department. The procedure has not been followed. The petitioner has been appointed during the ban period. All these aspects are considered.

4. We have considered the submissions.

5. The Government resolution dated 2nd August, 2011 laid down the filling in of backlog of Class C and Class D posts. The posts on which the petitioner was appointed comes in Class III. The period for filling in backlog was extended further vide Government Resolution dated 10th April, 2012. The same was extended upto 31st March, 2013. The petitioner was appointed on 8th December, 2012. Even the Director of Education has issued letter dated 05.11.2012 to all the Education Officers to consider the said Government Resolution dated 2nd August, 2011 so as to fill in backlog. The petitioner, it seems, is appointed pursuant to the

advertisement. The Government resolution dated 2nd August, 2011 and subsequent Government Resolution dated 10th April, 2012 do not appear to have been considered.

6. In the light of above, the impugned communication rejecting the proposal seeking approval to the appointment of the petitioner as Shikshan Sevak is quashed and set aside. The respondent authority shall reconsider the proposal of the petitioner, seeking approval to his appointment as Shikshan Sevak, on its own merits, in accordance with law, expeditiously, preferably within four months.

7. The proposal shall not be rejected on the ground that the appointment of the petitioner was during the ban period.

8. Writ petition is accordingly disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC