

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

**WRIT PETITION NO.10639 OF 2016**

Smt. Sonam Maroti Gavhane  
Age:25 years, Occu:Service,  
R/o.: Nagzari Parisar,  
Near Hind Mata Chowk,  
Ambejogai, Dist. Beed.

**...PETITIONER**

**VERSUS**

1. The State of Maharashtra,  
throug78-2017h it's Secretary,  
Education and Sports Department,  
Mantralaya, Mumbai-32,
2. The Secretary,  
Rural and Water Conservation  
Department, Maharashtra State,  
Mantralaya, Mumbai-32,
3. The Commissioner of Education  
Maharashtra State,Pune,
4. The Chief Executive Officer,  
Zilla Parishad, Beed,
5. The Education Officer (Primary),  
Zilla Parishad, Beed,
6. The Head Master,  
Virbhadreshwar Primary School,  
Parli-Vaijnath, Dist. Beed.

**...RESPONDENTS**

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Mr.Sambhaji G.Mundhe, Advocate for Petitioner/s  
Mr.AR Kale, AGP for Respondent Nos. 1 to 3;  
Mr. Avinash D. Aghav, for Resp.Nos. 4 & 5.

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**CORAM : R.M.BORDE &  
P.R.BORA, JJ.**

**DATE : 14<sup>th</sup> MARCH, 2017.**

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

1) Rule. Rule made returnable forthwith. With the consent of parties, the petition is taken up for final disposal at the admission stage.

2) The petitioner is objecting to the notice issued by the Commissioner of Education, Maharashtra State, Pune on 23<sup>rd</sup> May, 2016, calling upon the petitioner to show cause as to why appropriate action shall not be taken against him for non-observing the procedural formalities in respect of his appointment. It is alleged in the notice that the directives of the State Government and relevant Regulations have not been adhered to before issuing the letter of appointment to the petitioner.

3) Certain deficiencies are pointed out, which are primarily required to be complied with by the management and not the petitioner.

4) The petitioner has been appointed as

Shikshan Sevak since 15.6.2011 and his appointment has been approved by order dated 7.12.2014.

5) The petitioner is presently functioning as an Assistant Teacher. If at all there are any violation concerning the appointment of the petitioner, those are attributable to the management and not the petitioner. The petitioner has little explanation to tender in respect of the allegations levelled in the notice dated 23.5.2016. It has not been informed as to whether identical show cause notice has been issued to the management or to the Education Officer, who is instrumental in approving the appointment of the petitioner. The notice issued on 23<sup>rd</sup> May, 2016 to the petitioner is instance of non-application of mind to the record and as such, the said notice deserves to be quashed and set aside and it is accordingly set aside.

6) The petitioner is making the grievance that as a result of initiation of the proceeding in pursuance of the notice dated 23<sup>rd</sup> May, 2016, he has not been paid his monthly salary. If the grievance raised by the petitioner is true, we direct

Respondent No.3 to 6 to release the monthly salary receivable by the petitioner forthwith.

5) It would be open for the respondents, if necessary, to conduct probe into the allegations concerning the appointment of the petitioner and take appropriate action against those erring officials, who are responsible for the same.

6) Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

**(P.R.BORA)**  
**JUDGE**

**(R.M.BORDE)**  
**JUDGE**

bdv/