

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

WRIT PETITION NO. 11325 OF 2016

Smt. Savita d/o. Raghunath Somwanshi .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

Ms.S.S. Kazi, Advocate for the petitioner.

Ms.M.S. Gour, A.G.P. for respondent/State.

Mr.A.V. Hon, Advocate for respondent No.3.

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

DATED : 03.10.2017

P.C. :-

1. The proposal seeking approval to the appointment of the petitioner as Shikshan Sevak is rejected. Miss Kazi, learned Counsel submits that before filling the post, the institution had filed application with the Education Officer. Thereafter, advertisement was issued. The selection process was followed and the petitioner was appointed. All these facts are not considered while rejecting the proposal. Learned A.G.P. submits that on four grounds the proposal has been rejected. There was ban on recruitment as per Government Resolution dated 02.05.2012. The record with regard to call letters issued to the candidates is not filed. Even advertisement

is not issued. For all these reasons the proposal is rightly rejected.

2. It is stated that the respondent is a minority institution. Section 3(2) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 reads as under :-

“Notwithstanding anything contained in sub-section (1), the provisions of this Act shall not apply to the recruitment of the Head of a minority school and any other persons (not excluding three) who are employed in such school and whose names are notified by the Management to the Director or, as the case may be, the Deputy Director for this purpose.”

3. It appears that the application was given by the institution seeking permission to fill the posts. Thereafter, advertisement is issued. Copy of which is filed on record. The appointment was for the post of Shikshan Sevak for Maths and Physics subjects. The ban of recruitment also would not apply for all the aforesaid reasons. Considering the above, the impugned order is quashed and set aside. The petitioner and/or respondent institution shall file with the Education Officer copy of advertisement, copy of application seeking permission and the relevant document of calling candidates for interview and/or about the selection process. The Education

Officer, thereafter shall consider said proposal afresh and decide it on its own merit expeditiously, preferably within four months.

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

[S.M.GAVHANE, J.]

[S.V.GANGAPURWALA, J.]