

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

WRIT PETITION NO. 11410 OF 2016

Sandip Sahebrao Borase

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Vijay A. Dhakane, Advocate for the Petitioner.

Shri P. S. Patil, Addl.G.P. for Respondent Nos. 1 and 2.

Shri V. P. Raje, Advocate for the Respondent No. 3.

Shri G. S. Rane, Advocate for the Respondent No. 4.

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

DATE : 22ND NOVEMBER, 2017.

FINAL ORDER :

. The approval granted to the appointment of the petitioner is cancelled.

2. It is submitted that, after following due selection process, the petitioner is appointed as Shikshan Sevak to teach VIth to VIIIth standards. He is appointed from the Scheduled Caste category. The post from S. C. category had become vacant because on retirement of one Mr. Baisare. The approval is rejected basically on the ground that, there were only eight sanctioned posts and more persons were working. According to

the learned advocate for the petitioner, the post meant for under graduate was reduced and not on which the petitioner was working.

3. We have heard the learned counsel for respondent Nos. 3 and 4 and the learned Assistant Government Pleader.

4. It appears that the impugned order, does not deal with the aspect that the post from under graduate category had become vacant and not the post on which the petitioner is working as is claimed by the petitioner.

5. The another reason mentioned is that, there is no due selection process followed. The permission is not taken. The petitioner relies on the application given by the management dated 28.02.2012. The advertisement is issued on 22.09.2012. During this period the Education Officer did not communicate to the management, nor had sent any S.C. category surplus teacher.

6. Considering the above, we pass following order.

7. The impugned order is quashed and set aside. The matter is remitted back to the Education Officer. The Education Officer shall consider contentions of the parties about reduction of post from under graduate category and decide the proposal. It shall

not reject the proposal on the ground that the permission was not obtained or that surplus candidates were available or that there was ban on recruitment. The parties shall appear before the Education Officer on 06th December, 2017. The Education Officer shall decide proposal for grant of approval to the appointment of the petitioner afresh expeditiously and preferably within a period of six (06) months from today. The writ petition is disposed of. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Nov. 17