

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

937 WRIT PETITION NO. 11482 OF 2014

NARAYAN LOKOJI GAINWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Patil N.p. Jamalpurkar

AGP for Respondents/State : Mr. P.S. Patil

Advocate for Respondents : Mr. S.R. Chaukidar for R/4 and 9.

Advocate for Respondents : Mr. A.N. Nagargoje for R/5 & 6.

Advocate for Respondents : Mr. Ajay S. Deshpande for R/7 & 8.

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**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE : 06.09.2017

P.C. :-

. Mr. N.P. Patil Jamalpurkar, the learned counsel for the petitioner submits that the appointments of respondent nos. 5 to 8 are shrouded with suspension, in fact no procedure has been followed by the respondents, the names of these respondents never appeared in the on-line payment list of teachers. The learned counsel submits that even approval granted to respondent nos. 5 and 6 is illegal, the same is by joining hands with respondent nos. 9 and 10. According to the learned counsel, as per Rule 9 the proper procedure is required to be followed while appointing the 'Shikshan Sevak'.

2. The learned counsel further submits that the Education Officer has also not followed any procedure, the approval has been granted with retrospective effect. If the respondent nos. 5 and 6 are appointed in the year 2010, then, the management would have forwarded the proposal at that time itself. However, no such proposal was forwarded. The approval is granted in the year 2014 by the Education Officer with retrospective effect from the year 2010. According to the learned counsel, even the approval as an 'Assistant Teacher' and 'Shikshan Sevak' has been granted under the same order, which is illegal.

3. The complaint has been made by the petitioner who at the relevant time was working as an 'Assistant Teacher' and is also office bearer of the Sanstha. The learned counsel submits that the Deputy Director of Education be directed to make an inquiry upon the complaint filed by the petitioner.

4. We have heard Mr. Chaukidar, the learned counsel for respondent nos. 4 and 9, Mr. Deshpande for respondent nos. 7 and 8 and Mr. Nagargoje for respondent nos. 5 and 6.

5. As far as the averments with regard to the respondent nos. 7 and 8 are concerned, we are not inclined to consider the same in the

present writ petition as their appointments are not yet approved and the Education Officer can consider all the relevant aspects, while considering the grant of approval to their appointments.

6. As far as case against respondent nos. 5 and 6 are concerned, it appears that the advertisement was issued in daily newspaper which is produced on record. The Education Officer has stated that he has confirmed that the applicants were required to appear for interview on 25.08.2010 and, thereafter, the appointment orders have been issued in favour of respondent nos. 5 and 6. The appointment orders are considered by the Education Officer.

7. It would be presumed that the Public Officer has performed his duty in accordance with law. There are no allegations of *mala fides* as against the Education Officer. The approval has been granted by the Education Officer to the appointment of the respondent nos. 5 and 6 as 'Shikshan Sevak'. Naturally upon completion of three years as 'Shikshan Sevak', the person becomes deemed permanent as an 'Assistant Teacher', the same is considered.

8. It is also stated by the Education Officer that the information submitted at page 65 exhibit-D names of respondent nos. 5

and 6 are evident. The Education Officer has affirmed that after considering all the relevant aspects the approval has been granted.

9. It is also not the case that respondent nos. 5 and 6 are not qualified to be appointed as 'Shikshan Sevak', may be there is rivalry between the two groups in the management which we are not concerned with.

10. Considering the above, the writ petition stands disposed of.
No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]