

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11533 OF 2015

Marotrao S/o Keshav Jadhav

Petitioner

V E R S U S

Regional Deputy Commissioner,
Social Welfare Department, MIDC-
1, behind Ganesh Suzuki Show
Room, Barshi Road, Latur and
three others

Respondents

Mr. Ajay S. Deshpande, Advocate for the petitioner

*Mr. Y.G. Gujrathi, A.G.P. for the
respondent Nos. 1 & 2*

Mr. R.B. Ade, Advocate for respondent Nos.3 & 4

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

DATE : 7th MARCH, 2017

PER COURT :

1. Mr. Deshpande, learned counsel for the petitioner submits that the petitioner was appointed by following due procedure of law. The grievance

Committee also directed the respondent-Authority to grant approval to the petitioner, but the same is rejected by the Authority on the erroneous grounds. Learned counsel further submits that the post on which the petitioner is appointed is a sanctioned post. The advertisement was also published in the daily newspaper 'Mahasagar Samachar' in July, 2011. The petitioner was selected on the post earmarked for trained Teacher.

2. Learned counsel for respondent Nos.3 and 4 submits that the Assistant Commissioner, Social Welfare Office, Latur, while approving the staff for the year 2011-12, directed the respondent-Institution to fill-up the vacant post. The respondent-Institution, thereafter, filled-up the vacant post. Said post was reserved for V.J. category. The petitioner belongs to V.J. Category.

3. Learned A.G.P. submits that the Institution did not obtain permission from the respondent to fill-up the said post and even the appointment of the

petitioner was not approved by the respondent-authority. Unless and until all the surplus teachers are absorbed, the petitioner could not have been appointed by the respondent-Institution. The learned A.G.P. further submits that for all the aforesaid reasons, said proposal is rightly rejected. Even the Member from the respondents department was not invited to be a part of selection committee.

4. We have considered the submissions. The respondent-authority in its order relied upon the Government Resolution dated 16th October, 2012 to suggest that unless the surplus candidates are absorbed the approval is not to be granted to the new appointees. The petitioner is appointed on 20th July, 2011, which is prior to the Government Resolution dated 16th October, 2012. The said Government Resolution as such would not apply to the case of the petitioner.

5. The various Government resolutions prescribe for filling-up the backlog of the reserved category,

such as Government Resolution dated 13th April, 2011 and 21st August, 2013.

6. It appears that the advertisement was issued and the candidates were called for interviews. As per the staffing pattern, the petitioner could be appointed on the vacant post. The proposal for grant of approval for the appointment of the petitioner was not considered by the respondent-authorities on the basis of G.R. dated 16th October, 2012. It appears that even the grievance Committee directed to approve the appointment of the petitioner. It is submitted that in normal course, the selection is made by the Committee consisting of the Institution and the Officer from respondent Nos.1 and 2 is never present.

7. Considering the aforesaid aspects, the impugned order is quashed and set aside. The respondents shall re-consider the proposal for seeking approval to the appointment of the petitioner and shall not reject it on the ground on which the

impugned order was passed. The said proposal be decided expeditiously and preferably within three months from today. Writ Petition is accordingly disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)

SRM/7/3/17