

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11719 OF 2014

Gangaram Tukaram Baswade

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri N. P. Patil (Jamalpurkar) h/f Shri V. P. Golewar, Advocate for the Petitioner.

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

Mrs. Yogita M. Kshirsagar, Advocate for Respondent No. 3.

Respondent No. 4 served.

Shri V. S. Panpatte h/f Shri Irfan D. Maniyar, Advocate for Respondent No. 5.

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

DATE : 28th September, 2017

PER COURT :

1. Mr. Patil, learned counsel for the petitioner states that pursuant to the advertisement issued by the Institution the petitioner had applied for the post of 'Shikshan Sevak'. The petitioner is selected and appointed as a 'Shikshan Sevak' on 20th July, 2013. It is further submitted that the Education officer granted approval to the appointment of petitioner under order dated 27.12.2013.

2. Learned counsel further submits that without notice to the petitioner the said approval order was cancelled. The petitioner had challenged the said order in Writ Petition No. 2351 of 2014. The order of Education Officer was set aside and Education Officer was directed to reconsider the issue of approval. Pursuant to the orders of this court the Education Officer after hearing the parties again confirmed the order of approval in favour of the petitioner and cancelled the order revoking the approval. The salary bills were submitted the same was not being sanctioned, as such, the petitioner approached to this court. This court again directed the respondent to release the salary of the petitioner after deciding all objections. The Education officer under the impugned order cancelled the approval. The learned counsel submits that one Mr. Bhandari, is also absorbed in the Institution's own primary school. The Institution runs 3 primary school and in another primary school said Mr. Bhandari is already absorbed. According to the learned counsel, the appointment of the petitioner is as per the approved roster.

3. Mrs. Kshirsagar, learned counsel submits that, it is the

duty of the Institution to absorb its own employee who is declared surplus. Mr. Bhandari had been declared surplus, however, the Institution did not absorb Mr. Bhandari instead appointed petitioner by issuing advertisement. The appointment of the petitioner is illegal. The decision is taken as per the Government Policy.

4. The fact remains that the appointment of petitioner was approved. The said order of approval was cancelled. The order cancelling the approval was set aside and the Education Officer was directed to again decide the issue of approval afresh. Thereafter, the Education Officer again decided the said issue under order dated 27th July, 2014.

5. One of the objection raised in the affidavit filed by the respondent is that the teacher declared as surplus in the petitioner's Institution has not been absorbed. It is submitted across the bar that Mr. Bhandari who was declared as surplus has been absorbed in the Institution's another primary school as such the said objection does not survive.

6. In the earlier approval order the Education Officer has considered the procedure of appointment being valid.

7. Considering the fact that the appointment of the petitioner was approved after hearing and considering all the aspect and that the surplus teacher of the petitioner's Institution has already been absorbed, the impugned order is quashed and set aside. It is submitted that the salary bills of the petitioner are submitted to the Education Officer the same shall be processed and if there is no other impediment shall sanction the same with all consequential benefits if any considering that the services of the petitioner are approved.

8. The writ petition is disposed of. No costs.

[MANGESH S. PATIL, J.] [S. V. GANGAPURWALA, J.]

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