

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

BENCH AT AURANGABAD.

WRIT PETITION NO.12371 OF 2016.

Ku.Varsha Dhirsing Vilvi ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...

Mr.U.R.Awate, advocate holding for
Mr.S.B.Talekar, advocate for Petitioner.
Ms.R.P.Gour, A.G.P. for the State.
Mr.A.D.Pawar, advocate for Respondent No.5.

...

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

Date : 11.09.2017.

PER COURT :

1. The proposal seeking approval to the appointment of the petitioner is rejected. Aggrieved thereby, the present petition.

2. Mr.Awate, learned counsel for the petitioner submits that petitioner was appointed

as a Shikshan Sevak from reserved S.T. category. Proper selection process was followed. The advertisement was issued in the newspaper. Pursuant to the advertisement, the petitioner applied. The Selection Committee after conducting interview, selected the petitioner. The learned counsel submits that the proposal forwarded by the institution seeking approval to the appointment of the petitioner is rejected only on the ground that surplus candidates are not absorbed by the Respondent-institution. There is delay in forwarding the proposal and that prior permission of the Education Officer is not obtained. The learned counsel submits that ban on recruitment does not apply for filling in the post of reserved category candidate. Proper procedure has been followed.

3. Ms.Gour, learned A.G.P. submits that there are large number of surplus candidates waiting to be absorbed. Permission from the Education Officer was not obtained. In view of the ban on recruitment as per the Government Resolution dated 2.5.2012, the institution could

not have appointed the petitioner.

4. Even 14 teachers of the Respondent-society are declared surplus.

5. Mr.Pawar, learned counsel for the society refutes the allegations that there are surplus candidates of the Respondent-society.

6. We have considered the submissions. The petitioner is appointed from S.T. category. As per the Government Resolution dated 21.8.2013, so also Government Resolution dated 13.4.2011 as a special case the institutions were allowed to fill up the posts reserved for Backward Class candidates. In view of that the ban on recruitment as per GR dated 2.5.2012 would not operate for reserved candidates as has been held by this Court in Writ Petition No.10580/2015 with connected Writ Petitions under order dated 9.3.2017. It also appears that procedure has been followed while issuing appointment orders to the petitioner. It is also nowhere stated that during these years, the Respondent institution was

directed by the Education Officer to absorb some surplus candidates from S.T. category.

7. Considering above, we pass the following order :

a) The impugned order is quashed and set aside. The Respondent Education Officer shall decide the proposal seeking approval to the appointment of the petitioner afresh and shall not reject it on the ground that there was ban on recruitment or prior permission of the Education Officer was not obtained. The said proposal shall be decided expeditiously, preferably within four (4) months.

b) The Writ Petition is disposed of. No costs.

(MANGESH S. PATIL, J.)

(S.V.GANGAPURWALA, J.)

asp/office/wp12371.16

