

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

WRIT PETITION NO. 4282 OF 2017

Ganesh Vishwanath Kulkarni

Petitioner...

Versus

The State of Maharashtra & Ors.

Respondents...

.....
Mr S. G. Rudrawar, Advocate for the petitioner
Mrs M. B. Bharaswadkar, AGP for respondent/State
Respondents No. 3 & 4 served.
.....

**CORAM : R. M. BORDE &
A. M. DHAVAL, JJ.**

DATE : 19TH JULY, 2017.

ORDER:-

1. The age of the petitioner at the time of his appointment was admittedly more than 38 years and as such the Education Officer refused to accord approval to the appointment. The petitioner contends that, Rule 9(4)(b) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, does not prescribe the upper age limit for making appointment of an employee in the secondary school.

2. Though the relevant rule does not provide the upper age limit, the provision has been made by the State by issuing a

Resolution on 25.11.2005, whereunder it has been provided that the upper age limit in case of general category candidate shall be 33 years whereas; in case of backward class candidate, the upper age limit shall be 38 years. The deficiency appearing in sub-rule (4)(b) of Rule 9 has been supplanted by the State by issuing a Resolution and we do not find any error in providing for the deficiency appearing in the concerned rule. The directives issued by the State Government are admittedly not contrary to the expressed provision contained in the rule and as such shall hold the field in the absence of any specific provision contained in the aforesaid rule.

3. In view of the above, the petition being devoid of substance stands dismissed.

[A. M. DHAVALE]
JUDGE

[R. M. BORDE]
JUDGE