

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1617 OF 2006

**Shri. Basaveshwar Education Society
Karajgi, Tal. Akkalkot,
Dist. Solapur, through its Vice President
Shri. Basappa Surgappa Umberje ...Petitioner**

Versus

The State of Maharashtra and others ...Respondents

Mr. S. G. Kudle for the Petitioner.

Mrs. K. R. Kulkarni, AGP for the State.

**CORAM : S. V. GANGAPURWALA AND
A. M. BADAR, JJ.**

DATE : 27th JULY, 2017

P. C. :

1. The Learned Counsel for the Petitioner submits that the Respondent Nos.12 to 15 have not been appointed by following due procedure of law. The selection procedure adopted by Respondent Nos.4 to 9 is illegal, not in consonance with the provisions of the statute, a regular school committee was not constituted. If the appointment is without following due procedure of law, then the said appointment is void ab-initio and

the said appointment at no stage can be regularized. The Learned Counsel relies on the judgment of the Learned Single Judge of this Court in a case of *Ku. Jaimala Bhauroo Ramteke Vs. Presiding Officer, School Tribunal, Nagpur & others* reported in 2009 5 MhLJ 333.

2 None appears for Respondent Nos.3 to 15. The Learned AGP for Respondent Nos.1 and 2 present.

3 There cannot be any dispute with the proposition that appointment of Shikshan Sevak/teaching staff and the non-teaching staff has to be in consonance with the due procedure as established by law. The appointments are to be made by the competent person/committee. The Deputy Education Officer has filed an affidavit stating that the Assistant Charity Commissioner on 23.12.2005 passed an order and directed the trustees at Sr. Nos.2, 3, 4, 5 and 7 to 11 to look after the better management of the Trust. Out of the said trustees, four trustees at Sr. Nos.2, 4, 7 and 9 are the members of the School Committee constituted by the managing committee in their meeting dated 19.06.2005. The said School Committee made selection on 30.01.2006 of Shikshan Sevaks after duly advertising the posts in the local newspapers

and calling the names of candidates from the Employment Exchange. The said affidavit further states that the proposal of Respondent Nos.12 to 15 who were appointed as Shikshan Sevak is not yet received by the office of the Education Officer. The said affidavit is filed on 06.06.2006.

4 Needless to state that whenever a proposal comes to the Education Officer seeking approval to the appointment of Shikshan Sevak/members of teaching and non-teaching staff, the Education Officer has to satisfy himself of the due procedure for appointment having been followed, so also roster and at that time the necessary enquiry can be made.

5 In Writ Petition, it would not be possible to investigate into the said facts. If any party has any grievance with regard to the appointment, the said grievance can be made before the Education Officer who can consider the same at the time of grant of approval.

6 With these observations, the Writ Petition stands disposed of. No costs. Rule discharged.

(A. M. BADAR, J.)

(S. V. GANGAPURWALA, J.)