

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7120 OF 2017
WITH
CIVIL APPLICATION NO.2257 OF 2017

Sou. Smita Sanjay HanmanePetitioner
V/s.
The State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.7121 OF 2017
WITH
CIVIL APPLICATION NO.2258 OF 2017

Jyoti J. PatilPetitioner
V/s.
The State of Maharashtra & Ors.Respondents.

Mr. T.S.Ingale, Advocate for Petitioners/Applicant.
Ms. Kavita N. Solunke, AGP for the Respondent Nos.1 and 2-State.
Mr. U.R.Mankapure, Advocate for Respondent Nos.3 and 4.
Mr. I.M.Khairdi, Advocate for R.Nos.5 and 6.

**CORAM :- B.R.GAVAI &
SANDEEP K. SHINDE, JJ.**

DATE :- 16TH NOVEMBER, 2017.

PC. :-

Rule. Rule made returnable forthwith. Heard by
consent.

2 Petitioners are the part-time teachers in the Respondent No.4-Schools run under the management of the Respondent No.3 teaching different subjects.

3 While granting rule, taking into consideration the fact that the Petitioners are working since 2009, we had requested the Respondent No.3-Management to find out as to when next vacancies are likely to occur. Shri Mankapure the learned counsel for the Petitioners has placed on record communication received by him from Respondent No.3. It is submitted that in so far as the Petitioner in Writ Petition No.7120 of 2017 is concerned, post has become vacant. In so far as the Petitioner in Writ Petition No.7121 of 2017 is concerned, post is likely to be vacant in May, 2018.

4 Mr. Mankapure submits that however, in view of communication addressed by the Deputy Director, the Petitioners will have to compete with other eligible candidates after an advertisement is issued by the Respondent No.3. He submits that in the selection process, the Petitioners will be given preference taking into consideration their previous experience.

5 The Division Bench of this Court to which one of us (Gavai, J.) was party in Writ Petition No.6907 of 2011 vide order dated 19.12.2011 had already held that in view of the policy as

found in the Government Circular dated 31.1.2001, part-time teachers are entitled to be absorbed in full time course as and when same becomes vacant. However, apprehension of the Management cannot be said to be unjustified in-as-much as they have received instructions from the Deputy Director.

6 It is further to be noted that as per the policy which is modified vide communication dated 24.5.2004, part-time teachers on being absorbed as a full time teacher, incumbent is to be absorbed as Shikshan Sevak and upon completion of 3 years period, he would be entitled to regular salary of full time assistant teacher.

7 In that view of the matter, we make the rule absolute in the following terms:

(1) Petitioners would be absorbed as Shikshan Sevak. In so far as the Petitioner in Writ Petition No.7120 of 2017 is concerned, the Petitioner shall be immediately absorbed and appointed as Shikshan Sevak for a period of three years. Same shall be done within a period of one month from today.

(2) In so far as the Petitioner in Writ Petition No.7121 of 2017 is concerned, immediately after

the vacancy becomes available in May, 2018, the Petitioner in the said Petition shall be absorbed and appointed as Shikshan Sevak for a period of three years.

- (3) Upon successful completion of three years period as Shikshan Sevak by the Petitioners, they would be brought in the scale of Regular Full Time Assistant Teachers for all purposes including the salary.

8 Rule is made absolute in the aforesaid terms with no order as to costs.

9 As the Writ Petitions itself are disposed of, nothing survives in the civil applications therein and the same are also disposed of.

(SANDEEP K. SHINDE, J)

(B.R.GAVAI, J)