

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8221 OF 2016

Sau. Jagtap Sunita Manikrao

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

Mr. J.G. Reddy, for the Petitioner.

Mr. B.V. Samant, AGP for the Respondents No. 1 to 4.

Mr. Abhijit Y. Patil, for Respondents No. 5 & 6.

CORAM : B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.

DATE : 12 July 2017

JUDGMENT : (*Per B.R. Gavai, J.*)

1. Rule. Rule is made returnable forthwith.

2. Heard by consent.

Sharayu.

3. The Petitioner has approached this Court being aggrieved by not granting of approval to the appointment of the Petitioner as Assistant Teacher.

4. The Petitioner came to be appointed as Shikshan Sevak by order dated 15 June 2011 in the Respondent No. 5 School under the Management of Respondent No. 6. The Competent Authority i.e. the Special District Social Welfare Officer, Solapur granted approval to the appointment of the Petitioner as a Shikshan Sevak for a period of three years vide order dated 28 December 2011. Upon completion of three years period, the Respondent No. 6-Management sent a proposal for grant of approval of the Petitioner's services as Assistant Teacher.

5. The approval is refused of the Petitioner's appointment as Assistant Teacher by the Social Welfare Authority on the ground that the Petitioner's appointment as Assistant Teacher is in excess in the open category. It is

submitted that the Management has not filled in backlog of the reserved category candidate.

6. In the peculiar facts and circumstances of the case and particularly, when the approval was granted to the appointment of the Petitioner as Shikshan Sevak for a period of three years, we find that the Petitioner is entitled to be granted approval as Assistant Teacher upon completion of three years period as Shikshan Sevak. The Management has also stated on an Affidavit that it undertakes to fill in backlog and till the backlog of the post for reserved category candidates is filled in, it shall not appoint any other employee belonging to open category.

7. In that view of the matter, Rule is made absolute in the following terms :-

- (i) The Respondents Authorities are directed to grant approval to the Petitioner's services as

Assistant Teacher upon completion of three years period as Shikshan Sevak.

- (ii) The arrears of the salary shall be cleared within a period of six months from today.
- (iii) An undertaking of the Management that it shall not appoint any open category candidate until it fulfills the backlog requirements, is treated as an undertaking to this Court and accepted.

[RIYAZ I. CHAGLA J.]

[B.R. GAVAI, J.]