

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11732 OF 2015

Mr. Sanjay Gularam Sabale

....Petitioner

V/s.

The Education Officer,
Zilla Parishad (Secondary), Ratnagiri
and Ors.

....Respondents

* * * * *

Ms. Kumud A. Bhatia, Advocate for the petitioner.

Mr. C.P. Yadav, AGP for respondents no.1, 2 and 5.

Smt. S.N. Potdar, Advocate for respondent no.7.

Mr. S.A. Mane, Advocate for respondent no.4.

CORAM :-

B.R.GAVAI &

SANDEEP K. SHINDE, JJ.

DATE :-

27TH NOVEMBER, 2017.

P.C. :-

1. Rule. Rule, made returnable forthwith. Heard by
consent of Learned Counsel appearing for the parties.

2. By way of present petition, the petitioner has approached this Court for a direction to respondents no.1 and 2 to grant approval to his appointment as Shikshan Sevak” w.e.f. 17th August, 2013.

3. Perusal of the record would reveal that, on a vacancy arising on account of retirement of one, Salvi, a post reserved for Scheduled Tribe was available in the School run by the respondent no.3, Management. On the said post, the petitioner came to be appointed as “Shikshan Sevak”. Vide order dated 17th August, 2011, however, respondent no.1 rejected approval on the ground that, one Priyanka Bhatade was appointed against the post reserved for OBC had filed an appeal challenging her termination before the Learned School Tribunal.

4. The appeal filed by the said, Priyanka Bhatade has been subsequently dismissed vide judgment and order dated 28th August, 2012 by the Learned School Tribunal.

It is informed that a petition challenging the said order is pending before this Court.

5. In any case, we find that since the petitioner's appointment is against the post reserved for Scheduled Tribe and said Priyanka Bathade's claim is against the post reserved for OBC, there was no justification in withholding the grant of approval to the petitioner's appointment. We are of the considered view that the order passed by respondent no.1 dated 1st December, 2011 is on erroneous basis.

6. In the result, the petition is allowed. Respondents no.1 and 2 are directed to grant approval to the appointment of the petitioner as "Shikshan Sevak" w.e.f. 17th August, 2011 and upon completion of three years tenure as a "Shikshan Sevak" grant approval to his services as an "Assistant Teacher".

Rane

* 4/4 * WP-11732-2015 (SR. 12)
Monday, 27.11.2017

7. Needless to state that the salary be paid to the petitioner as an “Assistant Teacher” from the month of December, 2017 and all arrears in pursuance of the aforesaid order shall be cleared within three months from today.

(SANDEEP K. SHINDE, J)

(B.R. GAVAI, J)