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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13649 OF 2016

Vikas Shantaram Chande

.... Petitioner.

V/s

State of Maharashtra
and Others

..... Respondents.

Mrs. Ranjana Todankar, Advocate for Petitioner.

Mr. A.P. Vanarase, AGP for Respondent Nos. 1 and 2.

Ms. Manisha Devkar, Advocate for Respondent No.3.

**CORAM: B. R. GAVAI &
MANISH PITALE, JJ.**

DATE: 8th DECEMBER, 2017

P.C.:-

1] Petitioner has approached this Court praying for directions to Respondent No.2 to accord approval to the appointment of the Petitioner as an Assistant Teacher.

2] Undisputed facts are that the Petitioner, initially, came to be appointed as an Assistant Teacher in Respondent No.4 – School in non-grant-in-aid section. However, on the vacancy being available in the grand-in-aid section, Petitioner came to be appointed as an Assistant Teacher with effect from 16/07/2016. It is the contention of the Petitioner that though the proposal is forwarded for grant of approval to the Petitioner's appointment, the same is not yet decided

by Respondent No.2.

3] Respondent No.2 has filed an affidavit in reply dated 10th August, 2017. It will be relevant to refer to the following averments made in para 8 of the said affidavit in reply :-

“8.....In the matter of transfer of teacher from Unaided Section/Post to Aided Section/Post, the State Government have issued to the effect that the teacher working in Unaided Post for less than 5 years has to submit option to work as Shikshan Sevak for 3 years on fixed Honorarium in Aided Post and who has worked for 5 years or more than 5 years to accept Grant-in-Aid of 20% in the year of such transfer, 40% in the subsequent year, 60% in the 3rd year, 80% in the 4th year and 100% from 5th year onwards. A copy of Government circular dated 28th June, 2016 is enclosed herewith for perusal and reference. In the instant case, the Petitioner has put in less than 5 years as Teacher in Unaided post. Hence, if he opts to work as Shikshan Sevak for first 3 years in Aided Post, the necessary approval will be given. I say and submit that this Respondent No.2 being a subordinate Field Officer of the department has to observe and follow the orders issued by the State.”

4] It could thus be seen that, even according to Respondent No.2, if the Petitioner wants to work as Shikshan Sevak, necessary approval shall be given.

5] In that view of the matter, we allow the Petition in the following terms:-

(i) Respondent Nos. 3 and 4 are directed to submit a proposal to Respondent No.2 for grant of approval to the Petitioner's appointment as Shikshan Sevak with effect from 16/7/2016. The said proposal be submitted within a period of two weeks from today.

(ii) On such proposal being submitted, Respondent No.2 shall grant approval to the Petitioner's appointment as Shikshan Sevak with effect from 16/7/2016 for a period of three years.

(iii) Upon completion of three years tenure as Shikshan Sevak, Petitioner shall be granted approval as an Assistant Teacher.

(iv) Arrears of salary shall be paid to the Petitioner as Shikshan Sevak with effect from 16/07/2016 within a period of three months from today.

(MANISH PITALE, J.)

(B. R. GAVAI, J.)