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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2605 OF 2016**

Shaikh Javed Shaikh Yakoob and Others Petitioners.

V/s

The Municipal Commissioner,
Brihanmumbai Municipal Corporation
and Others Respondents.

Mr. A. A. Maniyar for the Petitioners.
Ms. M.S. Geeta Jogalekar for Respondent Nos. 1 to 5.
Mr. Kaushal Trivedi, Asstt. Govt. Pleader for Respondent No.6 – State.

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

DATE: 5th October, 2017

P.C.:-

1] Petitioners have approached this Court, seeking a writ of mandamus, directing the Respondent – Corporation to fill-in the vacant posts of Shikshan Sevak in Urdu Medium Primary School.

2] Learned Counsel for the Petitioners submits that, in response to the advertisement issued by the Respondent – Corporation in the month of June, 2013, Petitioners had applied for the post of Shikshan Sevak in Urdu Medium and the Petitioners were also included in the Select List. He submitted that, however, though there are posts

vacant, Petitioners are not being appointed and, as such, writ of mandamus needs to be issued.

3] Ms. Joglekar, learned Counsel appearing on behalf of the Corporation, on the contrary, submits that the posts to be filled-in were only such posts which were vacant till the date of advertisement and which had become vacant by the end of 2013. She submits that all such posts have been filled-in and, thereafter, the Waiting List has been cancelled in accordance with clause (4) of the terms and conditions of the advertisement.

4] Merely finding a place in the Waiting List, does not create any right in favour of the candidate. In any case, as held by Their Lordships of the Apex Court, Waiting List cannot be permitted to operate in perpetuity. Normally, no such List could be operative for more than one year from the date of selection. In the present case, selection process is completed in 2013. Petition has been filed in the year 2016 i.e. after a period of three years.

5] In that view of the matter, Petitioners cannot claim right to be appointed on the basis of Waiting List published in 2013, which would stand lapsed by the end of 2014. We, therefore, find no merit in this Petition. Petition is rejected.

(SANDEEP K. SHINDE)

(B. R. GAVAI, J.)