

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 638 OF 2018

Abhay s/o Suklal Suryawanshi
age 30 years, occ. service
r/o Suryakul, Sajjan Society
Laxminagar, Chalisgaon
Dist. Jalgaon

Petitioner

Versus

- 1 The State of Maharashtra
Through the Secretary of School
Education and Sports department
Mantralaya, Mumbai 32.
- 2 The Education Officer (Secondary)
Zilla Parishad Jalgaon
3. The Head Master
RASHTRIYA VIDYALAYA,
Chalisgaon, Dist. Jalgaon

Respondents

Mr. P.B. Patil, advocate for petitioner.
Mr. S.S. Dande, A.G.P. for respondents 1 and 2.
Mr. S.P. Nasade, advocate for respondent no. 3.

**CORAM : R.M.BORDE &
K.K. SONAWANE, JJ.
DATE : 19th MARCH, 2018**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Rule. Rule made returnable forthwith.
2. Heard finally with the consent of learned counsel for the respective parties.

3. Petitioner came to be appointed on the post of Laboratory Assistant on compassionate ground on 21.08.2015. Proposal tendered by the institution seeking approval to the appointment has been turned down by the Education Officer in view of communication dated 09.10.2017 wherein it is stated that since the appointment of petitioner has been made during operation of the period of ban in respect of making appointment in the educational institution, the appointment of petitioner cannot be approved.

4. It is not a matter of dispute that petitioner has been appointed on compassionate ground. This Court in Writ Petition nos. 76144/2015, 2089/2017 and other companion matters has held that ban on recruitment in view of Government Resolution dated 02.05.2012 shall not apply in respect of appointment on compassionate ground which is permissible to the extent of 10% of the total vacant posts. Similar decision has been rendered in the matter of Virendra Ravindra Deore Vs. The State of Maharashtra and others in Writ Petition No. 14738/2017 decided on 20.12.2017.

5. In view of the decision rendered by Division Bench of this Court in the matters referred to above, the order passed by the Education Officer on 09.10.2017 refusing to accord approval to the appointment of petitioner in view of Government Resolution dated 02.05.2012 is not sustainable and deserves to be set aside. Communication issued by the Education Officer on 09.10.2017 is thus quashed and set aside. The Education Officer shall reconsider the the proposal seeking approval to the appointment of petitioner as Laboratory Assistant and shall not reject the same only on the ground that appointment has been made during the

operation of the orders imposing ban on appointment in view of Government Resolution dated 02.05.2012. Necessary decision shall be taken as expeditiously as possible, preferably within a period of four months from today and it is accordingly directed. Rule made absolute to the extent as specified above. No costs.

K. K. SONAWANE
JUDGE

R.M.BORDE
JUDGE

dyb