

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.**

WRIT PETITION NO. 3708 OF 2017

Sampada W/o Suresh Jahagirdar ... Petitioner

VERSUS

The State of Maharashtra & Ors. ... Respondents

.....
Mr A. N. Nagargoje, Advocate for the petitioner
Mr P. S. Patil, AGP for respondent/State
Mr B. A. Shinde, Advocate for respondent No. 4
Mr V. S. Panpatte, Advocate for respondents No. 5 and 6
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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 14TH MARCH, 2018.

ORDER:

1. Leave to add Director of Education as party-respondent.
2. The proposal seeking approval to the appointment of the petitioner is rejected on the ground that procedure as required u/s 5 was not followed and there were surplus candidates available.
3. We have heard the learned counsel for the petitioner, learned Assistant Government Pleader for respondents No. 1 to 3,

Mr B. A. Shinde, learned counsel for respondent No. 4 and Mr V. S. Panpatte, learned counsel for respondents No. 5 and 6.

4. The chart showing the details as to the date on which the permission was sought, the date of advertisement and the date of appointment is reproduced hereunder.

Sr. No.	Name of petitioners	Permission sought	Date of advertisement	Date of appointment
1	Sampada Suresh Jahagirdar	24/03/14	27/06/14	16/07/14
2	Manish Bhagwantrao Gajmal	24/03/14	27/06/14	16/07/14
3	Ramesh Sureshrao Kale	06/07/15	09/08/15	01/09/15
4	Sandeep Asaram Khatikmare	06/07/15	09/08/15	01/09/15
5	Sunil Babasaheb Chinke	06/07/15	09/08/15	01/09/15
6	Mangesh Devidasrao Gore	06/07/15	09/08/15	01/09/15
7	Arjun Raju Pandit	06/07/15	09/08/15	01/09/15
8	Ravi Bhagwan Giri	06/07/15	09/08/15	01/10/15

5. The learned counsel appearing for the Education Officer confirms, on instructions, that the Education Officer had received the application as contended by the petitioner seeking permission to fill in the posts. In spite of receiving the applications seeking permission to fill in the posts, the Education Officer sat over the said applications

and did not take any steps to refer surplus candidates to the respondent-Institution. It is submitted that, for the first time, the surplus candidates were sent on 17.09.2016.

6. Almost after about a year, after the last candidate was appointed, surplus candidate was referred, no reason is forthcoming from the Education Officer for not forwarding the surplus candidates for absorption in the respondent-Institution though large number of vacancies were available. It was a lethargy on the part of the Education Officer in not sending the surplus candidates immediately though Education Officer had the knowledge of the vacancies with the respondent-Institution thereby frustrating the scheme of absorption of surplus candidates.

7. The petitioners No. 4 to 8 are appointed from reserved category. The ban on recruitment has been relaxed for them. The petitioners No. 1 to 3 are from open category. The applications seeking permission to fill in the posts were given to the respondents. The respondents did not respond for more than one year. The posts could not have been kept vacant for such a long period.

8. Considering the above, the impugned order is quashed and set aside. The respondent-Education Officer shall consider the

proposal seeking approval to the appointment of petitioners afresh and shall not reject it on the ground on which the impugned order is passed. The Education Officer is directed to consider all other aspects of the matter. The said proposal shall be decided expeditiously, preferably within four months.

9. The Institution may make an application with regard to the sanction of the posts to the appropriate authority.

10. In case such an application is already made, the authority shall consider the same on its own merits, expeditiously, preferably within a period of six months. If the said proposal is with Education Officer, same shall be forwarded to the Director of Education. The Director of Education shall take decision upon it on its own merits, in accordance with law, expeditiously, preferably within six months.

11. Writ Petition is, accordingly, disposed of. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde