

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

WRIT PETITION NO. 7569 OF 2017

Ashwin Kothya Valvi and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri N. P. Patil Jamalpurkar, Advocate for Petitioners.

Shri A. S. Shinde, A.G.P. for Respondent Nos. 1 to 4.

Shri S. G. Rudrawar, Advocate for the Respondent No. 5.

WITH

WRIT PETITION NO. 11351 OF 2017

Balasaheb Poma Jadhav .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri N. P. Patil Jamalpurkar, Advocate for the Petitioner.

Shri A. S. Shinde, A.G.P. for Respondent Nos. 1 to 4.

Shri Kalyan Patil, Advocate for the Respondent No. 5.

WITH

WRIT PETITION NO. 5238 OF 2017

Rajendra Dinkar Nagargoje .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri N. P. Patil Jamalpurkar, Advocate for the Petitioner.

Shri A. S. Shinde, A.G.P. for Respondent Nos. 1 to 4.

WITH

WRIT PETITION NO. 5435 OF 2017

Santosh Venkati Hudge .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri N. P. Patil Jamalpurkar, Advocate for the Petitioner.
Shri A. S. Shinde, A.G.P. for Respondent Nos. 1 to 4.
Shri S. B. Solunke, Advocate for the Respondent No. 5.

WITH
WRIT PETITION NO. 13535 OF 2017

Govind Mohanrao Suryawanshi .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri N. P. Patil Jamalpurkar, Advocate for the Petitioner.
Shri A. S. Shinde, A.G.P. for Respondent Nos. 1 to 4.
Shri S. B. Solunke, Advocate for the Respondent No. 5.

CORAM : S. V. GANGAPURWALA AND
ARUN M. DHAVAL, JJ.
DATE : 23RD JANUARY, 2018.

FINAL ORDER :

. Heard Mr. Patil, the learned advocate for petitioners and the learned Assistant Government Pleader for respondents/State.

2. It is submitted by Mr. Patil, the learned advocate for petitioners that, the petitioners are appointed after following due procedure. In each and every case the institutions have given applications seeking permission from the Deputy Director of Education to issue advertisement. The Deputy Director of

Education did not respond and thereafter the institutions issued advertisement. Pursuant to the advertisements and after following selection process petitioners were appointed. Many of the petitioners are from the reserved category. According to the learned counsel, even roster approved by the B. C. Cell was also submitted. However, mechanically the Deputy Director of Education has rejected the proposals on the ground that prior permission is not obtained. The chart giving details of the applications, advertisement and date of appointment is reproduced as under :

W. P. No.	Name of Petitioner	Category	Subject	Advert. Date	Date of Application for N.O.C.	Date of Appointment
7569 of 2017	Ashwin Kotya Valvi (Petitioner No. 1)	ST	Geography	13.10.13	17.07.13	16.11.13
	Priya Bharatrao Balwant	ST	Zoology	13.10.13	17.07.13	16.11.13
	Manohar Dhanajirao Samgar	SC	Sociology	13.10.13	17.07.13	16.11.13
	Pavitrakumar Vishwanath Hudge	Open	Physics	13.10.13	17.07.13	16.11.13
	Sandeep Shivraj Majge	Open	Commerce	13.10.13	17.07.13	16.11.13
11351 of 2017	Balasaheb Poma Jadhav	VJNT	Chemistry	13.10.13	17.07.13	16.11.13
5238 of 2017	Rajendra Dinkar Nagargoje	NT(D)	History	26.07.13	09.07.13	01.08.13
5435 of 2017	Santosh Vyankati Hudge	Open	Political Science	25.04.13	19.11.12	30.04.13
13535 of 2017	Govind Mohanrao Suryawanshi	Open	Political Science	10.07.13	22.03.13	01.08.13

3. Mr. Kalyan Patil, Mr. Rudrawar and Mr. Salunke, the learned advocates for institutions submit that, every time before issuing advertisement applications were given to the Deputy Director of Education seeking permission to fill in the posts. But the Deputy Director of Education did not respond, nor the Deputy Director of Education sent any surplus candidates to be absorbed in the institutions. The posts could not have been kept vacant for long time. The students would have suffered. The proper procedure was followed.

4. The learned Assistant Government Pleader submits that, as per Sec. 5 of the M. E. P. S. Act, it is mandatory for the institutions to seek permission of the Education Department. No such permission is sought prior to issuance of advertisement. The order is rightly passed.

5. Affidavit is filed by the Deputy Director of Education to the effect that, there are no surplus candidates to be absorbed. It is also not disputed that the institutions had given applications atleast two to three months prior to issuance of advertisements seeking permission to advertise the post. It is also not disputed that, the Deputy Director of Education did not respond, nor took any decision on the applications made by institutions. It is also not disputed that, some of the petitioners are from reserved category. It is also not disputed that, till the date, the Education

Department has not forwarded any intimation to the institution to absorb any surplus candidate.

6. Considering the above, we pass following order.

7. The impugned orders are quashed and set aside. The Deputy Director of Education shall decide the proposal seeking approval to the appointment of the petitioners afresh and shall not reject the same on the ground that prior permission was not obtained or that surplus candidates are not absorbed. The said proposals shall be decided expeditiously and preferably within a period of four (04) months from today. The writ petitions are disposed of. No costs.

[ARUN M. DHAVALÉ, J.]

[S. V. GANGAPURWALA, J.]