

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

WRIT PETITION NO. 5897 OF 2017

Prashant Vinayakrao Shinde .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Kalyan V. Patil, Advocate for the Petitioner.

Mrs. Vaishali N. Patil-Jadhav, A.G.P. for Respondent Nos. 1 & 2.

Shri B. R. Kedar, Advocate for Respondent Nos. 3 and 4.

**CORAM : S. V. GANGAPURWALA AND
ARUN M. DHAVAL, JJ.**

DATE : 31ST JANUARY, 2018.

FINAL ORDER :

. The proposal seeking approval to the appointment of the petitioner as Shikshan Sevak is rejected. Mr. Patil, the learned advocate for the petitioner submits that, prior to issuance of advertisement, the management had given four to five applications to the Education Officer seeking permission to fill in the post. No communication was received from the Education Officer and eventually post was advertised on 16.07.2013. The petitioner pursuant to the advertisement applied and after following due selection process, the petitioner was appointed. The proposal for approval was rejected only on the ground that, there were surplus candidates required to be absorbed.

2. Mr. Kedar, the learned advocate for the institution states that, application was given on 16th May, 2013 to the Education Officer seeking permission to fill in the post as one post of Hindi subject had become vacant on account of retirement of Smt. K. G. Sonwane on 28.02.2013. Thereafter four reminders were also given, but no response was received and thereafter, after following due procedure appointment was made.

3. The learned Assistant Government Pleader for respondent Nos. 1 and 2 submits that, there were large number of surplus candidates required to be absorbed. The Education Officer has rightly considered the observations of this Court in Writ Petition No. 9076 of 2016.

4. We have considered the submissions canvassed by learned counsel for respective parties.

5. It appears that, on the post becoming vacant, the institution applied to the Education Officer seeking permission to fill in the post on 16.05.2013. Thereafter, reminders were given on 29.05.2013, 08.06.2013, 21.06.2013 and 03.07.2013, however, the Education Officer did not respond. Eventually, the institution advertised for the said post on 16.07.2013 and appointed the petitioner.

6. The learned counsel for the respondent/institution has further stated that, even the Education Officer did not direct the institution to absorb surplus candidate during the relevant period. The Education Officer did not respond to the application and reminders given by the institution, nor sent any surplus candidate. The post could not have been kept vacant for long period, as students would suffer. The post was vacant from 28.02.2013.

7. Considering the above, impugned order is quashed and set aside. The Education Officer shall decide the proposal seeking approval to the appointment of the petitioner afresh on its own merits, in accordance with law and shall not reject it on that ground that surplus candidates were required to be absorbed. Said process shall be complete within a period of six (06) months from today. The writ petition is accordingly disposed of. No costs.

[ARUN M. DHAVALÉ, J.]

[S. V. GANGAPURWALA, J.]