

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

965 WRIT PETITION NO.6418 OF 2018

SUREKHA CHOTURAM DHAKNE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. S.S. Jadhavar

AGP for Respondents:Mr. S.P. Tiwari

Advocate for Respondent No.2 :Mr. V.M. Chate

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CORAM : **S. V. GANGAPURWALA & R. G. AVACHAT, JJ.**

Date: December 14, 2018

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PER COURT :-

1 Learned counsel for the petitioner submits that petitioners No.2 and 3 are appointed on 15.6.2013 and petitioner No.1 is appointed on 17.6.2013. All these petitioners are appointed on probation for a period of two years. At the time when the petitioners were appointed, the school was unaided. Learned counsel submits that the appointment of the petitioners as Assistant Teacher has been approved for the period of probation. Upon completion of period of probation, the management submitted proposal for their continuance. The same was rejected on the ground that the appointment of the petitioners is after issuance of the Govt. resolution dated 2.5.2012, imposing ban on

fresh recruitment. Learned counsel submits that the same is erroneous and the said Govt. resolution would not apply to the case of the petitioners, as they are appointed on unaided school.

2 Mr. V.M. Chate, learned counsel for the Education Officer submits that the appointment of the petitioners is after the policy decision of the State Government, imposing ban on recruitment under Govt. resolution dated 2.5.2012. In view of that, the appointment of the petitioners cannot be approved. The Govt. resolution dated 2.5.2012 specifically prohibits such appointments.

3 It is not in dispute that as on the date, the petitioners were appointed i.e. on 17.10.2013 and 17.6.2013, the school was unaided. The petitioners were appointed as Assistant Teachers. If the petitioners would have been appointed on aided school/division, their appointment could have been as *Shikshan Sevak*. However, as the school was unaided, the petitioners were appointed as Assistant Teachers on probation for a period of two years. The proposal, seeking approval to their appointments is already approved by the Education Officer under order dated 17.10.2013. The said approval is for appointment on probation period of two years.

4 The ban on recruitment was for the purpose that there were large number of surplus teachers who were required to be absorbed. The State cannot direct absorption of surplus teachers on unaided posts. Even the teachers working on unaided posts are not entitled to be absorbed in any other school as of right. The petitioners, on completion of period of probation, have become deemed permanent.

5 In the light of above, the impugned communication is set aside. The respondent - Education Officer shall decide the proposal seeking approval to continuation of the petitioners within three months and shall not reject the proposal on the ground, on which, the impugned order is passed.

6 The writ petition is disposed of. No costs.

(R. G. AVACHAT, J.)

(S. V. GANGAPURWALA, J.)