

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

WRIT PETITION NO. 8657 OF 2017

Sanjaykumar Ramrao Salunke .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri D. S. Mali, Advocate for the Petitioner.

Shri R. V. Dasalkar, A.G.P. for Respondent Nos. 1 and 2.

Shri P. M. Nagargoje, Advocate for Respondent Nos. 3 and 4.

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

DATE : 16TH JANUARY, 2018.

FINAL ORDER :

. The proposal seeking approval to the appointment of the petitioner as Shikshan Sevak is rejected. Aggrieved thereby present petition.

2. Mr. Mali, the learned counsel for the petitioner submits that, after following due selection process, the petitioner was appointed from the Scheduled Caste category. As per the roster, post was available for the S.C. category. The learned counsel submits that, the Government Resolution dated 02nd May, 2012 dealing with the ban on recruitment does not apply to the candidates from the S.C. category.

3. Mr. Nagargoje, the learned advocate for the respondent Nos. 3 and 4/management submits that, at no material point of time the Education Officer directed the management to absorb surplus candidates from S.C. category.

4. The learned Assistant Government Pleader for respondent Nos. 1 and 2 submits that, considering the G. R. dated 02.05.2012 the proposal has been rightly rejected. So also there are large number of surplus candidates waiting to be absorbed.

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

6. It is clear that, ban on recruitment would not apply to the candidates belonging to S. C. category and the post on which the petitioner is appointed, is meant for S. C. category. It appears that, the institution gave application to the Education Officer for filling in post on 15.07.2013. Thereafter issued advertisement in the news paper and after following due selection process, the petitioner was appointed on 12.08.2013. Of course, the Education Officer is entitled to satisfy himself about the selection process being followed and so also roster being followed. However, the Education Officer could not have rejected the proposal only on the ground that surplus candidates should have been absorbed or that there was ban on recruitment.

7. In the light of the above, we pass the following order.

8. The impugned order dated 21.03.2017 passed by the respondent No. 2/Education Officer is quashed and set aside. The Education Officer (Secondary), Zilla Parishad, Latur shall decide the proposal seeking approval to the appointment of the petitioner as Shikshan Sevak afresh on its own merits and shall not reject the same on the ground that there was ban on recruitment and surplus candidates are required to be absorbed. The said decision shall be taken expeditiously and preferably within a period of three (03) months from today. The writ petition accordingly is disposed of. No costs.

[ARUN M. DHAVALÉ, J.]

[S. V. GANGAPURWALA, J.]