

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

18 WRIT PETITION NO. 6976 OF 2016

RAVINDRA HARIBHAU KADAM
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Tandale Tushar M.
AGP for Respondents 1 to 3 : Mr. K.N.Lokhande
Advocate for Respondents 4 and 5 : Mr. Torde Vivek V.

**CORAM : S.V.GANGAPURWALA
AND
SUNIL K.KOTWAL, JJ.**

DATE : JULY 31, 2018

O R D E R :

Learned counsel submits that after following due procedure the petitioner was appointed as Shikshan Sevak on 3.7.2012. Prior to that, the advertisement was issued on 9.6.2011. According to the learned counsel, the petitioner is appointed from S.C. category. The ban on recruitment would not apply to the appointment made from S.C. S.T. category. Learned counsel relies on the Division Bench judgment of this Court at the principal seat in Writ Petition No.8587 of 2016 with connected matters, decided on 10.7.2017.

2. Mr. Lokhande, learned AGP submits that the petitioner is appointed during the ban period large number of surplus candidates are to be absorbed. The procedure is not properly followed. On line procedure for absorption of surplus candidates was performed on 21.9.2016. Still there are surplus teachers to be absorbed.

3. We have considered the submissions canvassed by the respective learned counsel.

4. The petitioner claims to have been appointed from S.C. category. The approval was granted to the appointment of the petitioner as a Shikshan Sevak. After completion of probation period of three years, the appointment of the petitioner as Assistant Teacher was also approved by the Education Officer. Under the impugned order the same is cancelled. The Division Bench of this Court in Writ Petition No. 8587 of 2016 has observed as under :

"9. In the result the Writ Petitions are allowed and impugned orders are quashed and set aside. The Respondents – Education Officers are directed to examine independent cases and grant approval to each of the teachers who fall in the following three categories :-

(a) Where the recruitment process is already commenced prior to GR dated 2nd May 2012;

(b) Where the appointments made for filling up vacancies in English, Mathematics and Science;

(c) Where the recruitment is made to fulfill the backlog of reserve categories candidates. "

5. The advertisement was issued prior to appointment of the petitioner. The petitioner is from SC category. The approval to the appointment of the petitioner was granted by the Education Officer considering that procedure has been followed. Not only approval as Shikshan Sevak was granted, but even approval as Assistant Teacher was also granted. Now, only because there are surplus candidates the approval order has been cancelled. Same is not in

consonance with the Division Bench judgment of this Court (supra).

6. In view of that, the impugned order is quashed and set aside. Writ Petition is accordingly disposed of. No costs.

[SUNIL K.KOTWAL, J.] [S.V.GANGAPURWALA, J.]

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