

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

WRIT PETITION NO. 7180 OF 2016

Harish Narayan Shete

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri G. K. Muneshwar, Advocate for Petitioner.

Shri S. B. Pulkundwar, A.G.P. for Respondent Nos. 1 to 3.

Shri P. R. Patil, Advocate for Respondent Nos. 4 and 6.

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

DATE : 15TH OCTOBER, 2018.

FINAL ORDER :

. Mr. Muneshwar, the learned advocate for the petitioner submits that, since the year 2009 the petitioner is working with the respondent institution. The qualification of the petitioner is M. Sc. B. Ed. The petitioner was selected in the selection process of the year 2009 and was kept in the wait list at Sr. No. 1. The learned counsel submits that persons at Sr. Nos. 2 and 3 in the wait list have been issued with appointment orders. The petitioner was appointed on year to year basis. The approval to the appointment of the petitioner was granted on yearly basis. The learned counsel further submits that, vacancy exists with

the respondent/institution, however, respondents are not issuing permanent appointment order to the petitioner. Even resolution is passed by the management on 26.06.2009 that considering the need of teachers, the candidates including the petitioner should be issued with appointment orders. However, respondents are resiling from the same.

2. Mr. Patil, the learned counsel for the institution submits that, in the selection process of the year 2011, the petitioner got less marks. The candidates are appointed as per the availability of the posts. The petitioner was appointed as a part timer. The appointment orders issued show that the petitioner is appointed as a part timer. No other vacancy exists.

3. Mr. Pulkundwar, the learned Assistant Government Pleader submits that, approval to the appointment of the petitioner is granted on yearly basis as a part timer.

4. It appears that, pursuant to selection process of the year 2009 a resolution came to be passed by the management on 26.06.2009, wherein wait list of the candidates was maintained and it was resolved to give them appointments. The name of the petitioner is included in the list of six candidates (page 22 Exhibit – C).

5. The candidates at Sr. Nos. 2 and 3 were issued with appointment orders in the year 2010. The appointment orders placed on record show that the petitioner is appointed as a part timer, however, approval orders show that the approval is granted to the appointment of the petitioner on year to year basis. According to the learned counsel for the respondent/institution vacancy does not exist in the institution and appointments were made commensurate to qualification and availability of posts. The representation decided by the institution states that, in the selection process of the year 2011, the petitioner secured less marks and he was held ineligible. The institution will be required to place the record with regard to selection process.

6. In the aforesaid scenario, we direct the Deputy Director of Education to consider the record of the institution viz respondent Nos. 4 and 5, so also the stand of the petitioner and the documents that would be filed by the petitioner and take decision with regard to claim of the petitioner of he being selected in the selection process and/or otherwise and issue necessary directions. The petitioner may approach the Deputy Director of Education within a period of three weeks from today. The Deputy Director of Education, after hearing the management and the petitioner and concerned other persons shall take decision upon it as referred to supra, expeditiously and

preferably within a period of four (04) months thereafter. The writ petition is disposed of. No costs.

[R. G. AVACHAT, J.]

[S. V. GANGAPURWALA, J.]

bsb/Oct. 18