

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

WRIT PETITION NO.8324 OF 2017

Smt.Tatale Rajkumar Manikrao

.. Petitioner

Versus

The State of Maharashtra,
through its Secretary,
School Education and Sports
Department, Mantralaya,
Mumbai and ors.

.. Respondents

Mr U.R. Awate, Advocate for Telekar and Associates for petitioner
Mr P.S. Patil, A.G.P. for respondents no.1, 2, 5 and 6
Mr N.E. Deshmukh, Advocate for respondents no.3 and 4

**CORAM : S.V. GANGAPURWALA &
A.M. DHAVALA, JJ**

DATE : 1st March 2018

PER COURT

1. The proposal seeking approval to the appointment of the petitioner as Shikshan Sevak is rejected.
2. Heard the learned Counsel for the petitioner, learned A.G.P. for respondents no.1, 2, 5 and 6 and learned Counsel for respondents no.3 and 4.
3. It is stated that the institution gave an application on 20.4.2012 to the Education Officer seeking permission to fill in the post. Upon not receiving any response from the Education Officer, the institution issued an advertisement on 5.8.2012. Thereupon, after selection process, the petitioner was appointed as Shikshan Sevak for English subject on 14.8.2012. The proposal seeking approval to the appointment of the petitioner is rejected, basically on the ground that as per Section 5 (1) of the Maharashtra Employees of Private Schools

(Conditions of Service) Regulation Act and its provisos, permission has not been obtained. So also, there was ban on recruitment and there were surplus candidates to be absorbed.

4. It would appear that the institution had given application seeking permission to fill in the post. The Education Officer sat over the application and did not respond. The Education Officer also did not forward any surplus candidates to the institution for absorption as contended by the institution.

5. Considering all the aforesaid aspects of the matter, it cannot be said that the institution had not followed the provisions of Section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act. The case of the Education Officer could have been considered, had the Education Officer forwarded surplus candidates to the institution and the institution had not absorbed the surplus candidates. However, the same is not the fact.

6. In light of aforesaid facts, the impugned order dated 20.1.2017 passed by respondent no.2 rejecting the proposal of approval to the appointment of petitioner is hereby quashed and set aside.

7. The Education Officer shall decide the proposal seeking approval to the appointment of the petitioner afresh, expeditiously, preferably within four months. The Education Officer shall not reject the same on the ground that permission was not obtained or that there was ban on recruitment or that surplus candidates were required to be absorbed.

8. Writ Petition disposed of. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)

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