

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

WRIT PETITION NO. 7235 OF 2016

**PRAGTIK SHIKSHAN SANSTHA,
THROUGH ITS SECRETARY AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.C.K.Shinde, Advocate for petitioners

Mr.S.P.Sonpawale, AGP for respondent nos.1 to 3

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

DATE : OCTOBER 17, 2018

PER COURT

The proposal sent for approval to the appointment of petitioner no.3 as Arts Teacher in petitioner no.2 has been rejected by the Education Officer.

2. Heard Mr.Shinde, learned Advocate for the petitioners and the learned AGP for the respondents.

3. The proposal has been rejected mainly on three grounds viz.(i) the post of Arts teacher is not

available; (ii) there is already surplus teacher in petitioner no.2; and (iii) there are other senior persons in the list of the candidates to be appointed on compassionate ground.

4. It is submitted by Mr.Shinde, learned Advocate for the petitioners, that one Arts Teacher namely, Mangal Eknath Kulthe stood retired on 31.12.2015. In her place, petitioner no.3 has been appointed on compassionate ground, as per the directions issued by the Education Officer. It is submitted that the Assistant Teacher, who has become surplus, is not a teacher of Arts subject. It is further submitted that the other three persons above petitioner no.3 in the list of the candidates to be appointed on compassionate ground, are not qualified in Arts, for which the vacancy exists.

5. Upon perusal of record, it appears that on retirement of the Arts teacher, petitioner no.3 has been accommodated on that post. According to the

learned Advocate for the petitioner, if the strength of the students exceeds 100, then one part-time post of Arts teacher is available as per the R.T.E. Act. Further, though the persons, who are senior in the list of the candidates to be appointed on compassionate ground, were not qualified to be appointed as Arts teacher, one of the persons senior to petitioner no.3 has been appointed as a Lab Assistant on compassionate ground. All these aspects have not been considered by the Education Officer while passing the impugned order.

6. The impugned order is quashed and set aside. The Education Officer shall decide the proposal seeking approval to the appointment of the petitioner, on its own merits and considering the availability of the post, as claimed by the petitioner, so also the qualification of the teacher, who is declared as surplus and whether he can be appointed in the place of petitioner no.3, so also the qualification of the other persons above

petitioner no.3 in the list of the candidates to be appointed on compassionate ground. The petitioner may appear and represent before the Education Officer. The Education Officer shall decide the proposal within four months afresh on its own merits.

7. With the above directions, the Writ Petition is disposed of. No costs.

[R.G. AVACHAT, J.]

[S.V. GANGAPURWALA, J.]

kbp