IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7798 OF 2016

Prajakta Changdeo Khaire ..PETITIONER

VERSUS

State of Maharashtra and Others ..RESPONDENTS

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Mr. S.S. Thombre, Advocate for petitioner.
Mr. V.S. Badakh, A.G.P. for respondent – State.
Mrs. V.S. Chaudhari, Advocate for respondent no.4.

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CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.
DATED : 01st NOVEMBER, 2018

ORDER :

Heard the learned Counsel for the petitioner and the learned Counsel for respondent no.4 – Zilla Parishad. The petitioner claims to have been selected for the post of Shikshan Sevak pursuant to the CET examination held in the year 2012.

2. It is the case of the petitioner that the petitioner was never served with any appointment order. Subsequently, on making enquiry, it was communicated to the petitioner that appointment order was issued to the petitioner. As the petitioner was not served with the appointment order, the

petitioner was not in a position to join at the place mentioned in the appointment order. The learned Counsel submits that the petitioner had appeared for the selection. If the petitioner would have been served with the appointment order, it is highly improbable that the petitioner would not join.

3. Mrs. Chaudhari, the learned Counsel for respondent no.4 submits that the petitioner was issued with appointment order. Almost 100 of candidates were issued with the appointment orders and all were served and those candidates joined the duties also. The petitioner, on his own, did not join the post. The respondent waited for a period of 15 days. Now the petitioner cannot claim right to be appointed.

4. We have considered the submissions of the respective parties. It appears that the appointment order was issued through an ordinary post. There is nothing on record to show that the petitioner was served with appointment order. Acknowledgment of service of appointment order is not placed on record. It would not be possible to accept the contention of the respondent that the petitioner was served with appointment order and still did not join. In absence of any proof that the petitioner was served with appointment order, it would be unsafe to hold that the petitioner was served with appointment order and still did not join.

5. We are also not inclined to consider the case of the petitioner for considering the appointment from the initial date. The petitioner is also responsible for delay in coming to the Court. To meet the equities, we pass the following order :-

(I) As and when vacancy is available with Respondent no.4 for S.C. category, Respondent no.4 shall issue appointment order to the petitioner.

(II) The appointment of the petitioner for all purposes shall be considered from the date of issuance of fresh appointment order.

(III) Respondent no.4 shall verify the vacancy within six weeks from today.

(IV) Writ petition is accordingly disposed of. No costs.

(R.G. AVACHAT, J.) **(S.V. GANGAPURWALA, J.)**

SSD