

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9564 OF 2017

Maharu Bhaskar Rane

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri V. S. Panpatte, Advocate for the Petitioner.

Shri R. V. Dasalkar, A.G.P. for Respondent Nos. 1 to 3.

Shri Irfan D. Maniyar, Advocate for Respondent Nos. 4 and 5.

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

DATE : **9th January, 2018**

PER COURT :

1. The proposal seeking approval to the appointment of petitioner as 'Shikshan Sevak' is rejected.

2. It is claimed that the Institution has filed numerous applications seeking permission to fill in the post for Math subject. The applications were purported to have been filed on 7.6.2013, 5.8.2013, 29.10.2013, 19.11.2013 and 26.11.2013 to fill in the vacant post of Mathematics subject from O.B.C. category.

It appears that there was no response from the office of the

Education Officer. Subsequently the respondent No. 5 published an advertisement on 4.12.2013, for filling in the post of 'Shikshan Sevak' from O.B.C. category. Pursuant to the advertisement it appears that the petitioner was selected.

3. The proposal seeking approval to the appointment of petitioner is finally rejected on the ground that there are surplus candidates to be absorbed and the procedure under Section 5 (1) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 is not followed.

4. We have heard the learned advocate for the petitioner and the learned A.G.P.

5. It appears that the Institution had given various applications seeking permission from the Education Officer to fill in the post as was required under Section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. The Education Officer did not respond to the applications given and after waiting for almost six months advertisement was issued. The petitioner appears to be from

O.B.C. category i.e. reserved category. For them also the aspect of ban on recruitment would not arise. The petitioner was appointed for Mathematics subject and for that purpose even the reference to Government letter of 2014 would be relevant.

6. It is also not the case of the respondent that during this period the respondent had sent some surplus candidates to be absorbed with respondent No. 5 and that respondent No. 5 fails to comply the same.

7. Considering all the aspects of the matter, the impugned order is quashed and set aside. The respondent – Education Officer shall reconsider the proposal seeking approval to the appointment of the petitioner as 'Shikshan Sevak' on its own merits and shall not reject on the ground on which the impugned order is passed. The same shall be decided expeditiously and preferably within a period of three (3) months.

8. The writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]