

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

906 WRIT PETITION NO.2403 OF 2018

- . Shankar s/o Sitaram Vanjare
Age: 36 years, Occu.: Service,
At.Post.Farkanda, Tq.Palam,
District - Parbhani. ..Petitioner

VERSUS

1. The State of Maharashtra
Through its Secretary,
School Education Department,
Mantralaya, Mumbai 32.
2. The Education Officer (Secondary),
Zilla Parishad, Parbhani.
3. Shri Baliraja Shikshan Sanstha,
Someshwar, Tq.Palam,
District - Parbhani,
Through: its Secretary.
4. The Headmaster,
Jaikranti High School, Farkanda,
Tq.Palam, Dist.Parbhani. ..Respondents

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Advocate for Petitioner : Mr.Manoj A.Dond
AGP for Respondent Nos.1 & 2 : Mr.S.Y.Mahajan

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**CORAM : R.M.BORDE AND
K.K.SONAWANE, JJ.**

DATE: 6th March, 2018

ORAL JUDGMENT:-

(Per: R.M.Borde, J.)

- 1) Heard the learned counsel for the parties.
- 2) Rule. With the consent of the learned counsel for the parties, the petition is taken up for final disposal at the admission stage.
- 3) The petitioner prays for issue of writ of certiorari or any other appropriate writ or order for quashment of the order dated 7.7.2017 issued by the Education Officer (Secondary), Zilla Parishad, Parbhani.
- 4) The Petitioner was appointed as a member of non-teaching staff on 21.10.2013. The initial appointment of the petitioner was on probation for a period of three years. The appointment of the petitioner was approved by the Education Officer (Secondary), Zilla Parishad, Parbhani, on 17.10.2014. The Education Officer, however, in

the year 2017, called upon the School Management to show cause as to why approval accorded to the appointment of the petitioner shall not be recalled. It does appear that the respondent No.2 – Education Officer (Secondary), Zilla Parishad, Parbhani, passed an order dated 7.7.2017, directing withdrawal of the approval in respect of appointment of the petitioner earlier in the year 2014.

5) The learned counsel for the petitioner contends that, the petitioner has been accommodated as against a vacant seat prescribed for scheduled caste category. There was no reason for the Education Officer to direct recall of the approval. The petitioner's appointment has been made as against reserved category as per roster. It is also the contention of the learned counsel for the petitioner that the petitioner has been appointed in observance of the prescribed procedure and reasons recorded in the order dated

7.7.2017 are erroneous. The learned counsel for the petitioner also contends that since initial approval has been accorded by the Education Officer (Secondary), the Officer of the same cadre does not have jurisdiction to review the order passed by the predecessor Education Officer. It is contended that the Education Officer (Secondary) is not vested with the jurisdiction to pass the impugned order.

6) Reliance is placed on the orders rendered by this Court in the case of **Rohidas Balasaheb Waghmare Vs. The State of Maharashtra and others, in Writ Petition No.1948 of 2017** on 22.9.2017, as well as in the case of **Bhagwat Balasaheb Munde and another Vs. The State of Maharashtra and others, in Writ Petition No.5766 of 2017 and other companion matters** on 12.9.2017.

7) Our attention is also invited to Resolution issued by the State Government on 23.8.2017. It

has been prescribed by the State Government that the exercise of recall of approval accorded by the Education Officer has to be conducted by the superior Officer and it is not open for the Education Officer to review his own order.

8) In view of the decisions cited above as well as in view of the policy of the State Government declared on 23.8.2017, the order impugned in this petition, passed by the Education Officer (Secondary) on 7.7.2017 is not sustainable and deserves to be quashed and set aside. Therefore, the order impugned in this petition, passed by the Education Officer (Secondary) on 7.7.2017 recalling the order of approval in respect of appointment of the petitioner is quashed and set aside. If at all the superior Officer deems it appropriate, it would be open for the concerned officer to take steps in accordance with the policy of the State Government declared on 23.8.2017.

9) In view of the above, writ petition is disposed of.

10) Rule is made absolute accordingly. No order as to costs.

(K.K.SONAWANE)
JUDGE

(R.M.BORDE)
JUDGE