

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

WRIT PETITION NO. 10171 OF 2017

Asha Govardhan Surshetwar ... Petitioner

VERSUS

The State of Maharashtra & Ors. ... Respondents

.....
Mr M. P. Tripathi, Advocate for the petitioner
Mr S. G. Karlekar, AGP for respondent/State
.....

**WITH
WRIT PETITION NO. 10172 OF 2017**

Shivprasad Shankarrao Aher ... Petitioner

VERSUS

The State of Maharashtra & Ors. ... Respondents

.....
Mr M. P. Tripathi, Advocate for the petitioner
Mr A. S. Shinde, AGP for respondent/State
.....

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

DATE : 15TH JANUARY, 2018.

ORDER:

1. The proposals seeking approval to the appointment of the petitioner was initially allowed. The appointment of the petitioner as

Shikshan Sevak was approved. Thereafter, the continuation of the service of the petitioner as Assistant Teacher is also approved. Subsequently, the approval granted to the appointment of the petitioner as Assistant Teacher is cancelled under the impugned order.

2. Mr Tripathi, learned counsel for the petitioner submits that, as per the roster, the appointment was made and as per roster, approval was granted by the Education Officer after considering all the aspects. The posts were meant for English and Hindi subjects respectively. The learned counsel submits that, even the roster was submitted to the Education Officer. The learned counsel submits that, even application was given to the Education Officer seeking permission for filling in the posts, the same was not decided. Thereafter, advertisement was published and the procedure was followed. The learned counsel submits that, the Education Officer does not have power to review its own order. The Id. Counsel relies on the judgment of this Court in W.P. No. 10133 of 2016 with connected matters dt. 01.08.2017. The learned counsel further submits that, all the steps were followed.

3. Learned AGP submits that, the Institution had not taken permission from the Education Officer for filling in the posts and also

the Roster was not got approved so also the appointment was not made as per Roster.

4. In the impugned order, nowhere it is shown as to how the posts for open category were not available. The Roster was before the Education Officer. The Education Officer has nowhere dilated as to how the appointment is not as per the roster. The backlog of reserved category candidate does not appear except that of VJ category. The Institute will have have to fill in the posts of reserved category. The applications were given by the Institution for filling in the posts. It is not the case of the respondent-Education Officer that surplus candidates were directed to be absorbed by the institution and the institution failed to absorb the surplus candidates.

5. Considering the aforesaid conspectus of the matter, the impugned orders are quashed and set aside. The Institute shall undertake to fill in the backlog of the reserved category.

6. The writ petition stands disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE