

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

926 WRIT PETITION NO. 11580 OF 2017

VINAYAK KASHIRAM RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. S.B.Solanke, Advocate for Petitioner
Mrs. A.V.Gondhalekar, AGP for Respondent-State
Mr. U.B.Bondar, Advocate for Respondent No.2
Mr. A.R.Gaikwad, Advocate for Respondent Nos.3 & 4

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**CORAM : PRASANNA B. VARALE AND
MANGESH S. PATIL, JJ.**

DATE : 29.11.2018

PER COURT :-

1. Heard Mr. Solanke, the learned counsel for the petitioner, the learned AGP for Respondent No.1-State, Mr. Bondar, the learned counsel for Respondent No.2 and Mr. Gaikwad, the learned counsel for Respondent Nos.3 and 4.

2. The petitioner is before this Court challenging the order dated 12.05.2017 whereby proposal for approval of the petitioner is rejected. The Respondent No.4 - Society sought permission from the Education officer to publish advertisement so as to fill up the posts calling vacant in the school. Accordingly, advertisement was published. As there

was no response from the office of the Education Officer (Primary) immediately advertisement was published. The petitioner was appointed on 29.03.2017. The Institute submitted proposal for approval to the Education Officer (Primary) on 13.04.2017. The Education Officer (Primary) Zilla Parishad, Latur by order dated 12.05.2017 rejected the approval. The learned counsel for the petitioner submitted that the rejection order is unsustainable on more than one grounds. The learned counsel submitted that the reason assigned in the rejection order is non absorption of the surplus teachers and then reference is made to an order passed in Writ Petition No.9076 of 2016. The submission of the learned counsel for the petitioner that reference made to the order of this Court cannot be a ground for rejection as the facts totally differ from the facts of Writ Petition No.9076 of 2016 and the facts of the present petition. Then the learned counsel for petitioner submitted that the petitioner was appointed to teach science subject and the petitioner is belonging to VJNT (A) category.

3. The learned counsel then placed heavy reliance on the judgment, an order passed by the Division Bench at Principal Seat in Writ Petition 8587 of 2016 and other

connected petitions. It was the submission of the learned counsel that the case of the petitioner would fall in category B and C as the petitioner was appointed to teach science subject and the petitioner was recruited to fulfill the backlog from reserved category candidates. Though the petition is post by the learned counsel appearing for the Respondents, on perusal of the material, we find considerable merit in the submissions of the learned counsel appearing for the petitioner. The learned counsel for the petitioner was also justified in submitting before us that on the back drop of the facts of the matter, the case of the petitioner falls in category B and C of the judgment delivered at Principal Seat in Writ Petition 8587 of 2016 and other connected petitions.

4. Resultantly, the petition is allowed in terms of prayer clause 'B'. The petition is accordingly disposed of.

(MANGESH S. PATIL, J.)

(PRASANNA B. VARALE, J.)

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vmk/-