

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

WRIT PETITION NO. 11513 OF 2017

Namdev Walmik Nagargoje .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Subhash V. Mundhe, Advocate for the Petitioner.
Smt. Vaishali N. Patil, A.G.P. for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA AND
ARUN M. DHAVALA, JJ.**

DATE : 04TH JANUARY, 2018.

FINAL ORDER :

. The learned Assistant Government Pleader accepts notice for respondent Nos. 1 and 2.

2. Mr. Mundhe, the learned counsel for the petitioner submits that, after following due selection process, the petitioner was selected and appointed as Assistant Teacher on non grant in aid post. The proposal was submitted seeking approval to the appointment of the petitioner as Assistant Teacher. The same is rejected on the ground that at the relevant time there was ban on recruitment as per G. R. dated 02.05.2012. The learned counsel further submits that, the respondent No. 3 being minority institution, the said ban would not apply.

3. The learned Assistant Government Pleader for respondent Nos. 1 and 2 submits that, there are large number of surplus teachers required to be absorbed. As those teachers are not yet absorbed and no permission was sought, the petitioner could not have been appointed.

4. The Government Resolution dated 13.07.2016 lays down that, surplus teachers can be absorbed with the minority institutions at the behest of the minority institution and the authorities cannot force the management of minority institution to absorb the surplus teachers. Reference can be had to Clause 5 and 6 of the G. R. dated 13.07.2016.

5. In the light of the above, the impugned order is quashed and set aside. The Education Officer (Secondary), Zilla Parishad, Hingoli shall decide the proposal seeking approval to the appointment of the petitioner afresh, on its own merits, in accordance with law, expeditiously and preferably within a period of six (06) months from today and he shall not reject the proposal on the ground on which impugned order is passed. The writ petition accordingly is disposed of. No costs.

[ARUN M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]