

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

WRIT PETITION NO. 10186 OF 2017

Shital W/o Ashish Mandan

Age : 36 years, Occup : Service as  
Shikshan Sevak/Assistant Teacher,  
R/o: Block No. E/3, Room No.2,  
Kumar Nagar, Dhule,  
Tq. and Dist. Dhule

...Petitioner

Versus

1. The State of Maharashtra  
Through its Secretary,  
School Education Department,  
Mantralaya, Mumbai-32.
2. The Education Officer (Secondary),  
Zilla Parishad, Dhule.
3. Dhule Education Society,  
Dhule, Tq. & Dist. Dhule,  
through its President/Secretary.
4. J.R. City High School and Jr. College,  
Dhule, Tq. and Dist. Dhule,  
through its Head Mistress.

...Respondents

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Mr. V.S. Panpatte, Advocate for Petitioner  
Mr. S.Y. Mahajan, AGP for Respondent/State  
Mr. I.D. Maniyar, Advocate for Respondent Nos. 3 and 4

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**CORAM : PRASANNA B. VARALE AND  
MANISH PITALE, JJ.**

**DATE: 9<sup>th</sup> OCTOBER, 2018**

**ORAL JUDGMENT (PER PRASANNA B. VARALE, J. )**

1. Rule. Rule is made returnable forthwith. With the consent of the parties, heard finally and the petition is taken up for final disposal at admission stage.

2. The petitioner challenges the rejection order dated 27.04.2017. Certain facts would be useful for the disposal of the petition are the petitioner in response to the advertisement dated 22.05.2013 submitted his claim for the post of Shikshan Sevak teaching English subject. There were two posts available in the school run by the Management namely, Dhule Education Society, Dhule. In response to the advertisement, the petitioner submitted his claim and he was appointed by order dated 01.08.2013. The proposal submitted for grant of approval to the appointment is rejected raising three grounds, namely, the appointment of petitioner was in contravention of the Government Resolution dated 02.05.2012 then, no certificate of the competent authority is obtained before appointment of the petitioner as required under section 5(1) of the M.E.P.S. Act, 1977. The learned Counsel Mr. Panpatte submits that the issue was dealt in by the Division Bench of this Court and the detailed Judgment is passed in bunch of petitions i.e. Writ Petition No. 8587 of 2016 and other connected petitions.

3. Mr. Panpatte, the learned Counsel submits that certain categories are carved out by the Division Bench in para 9 of the Judgment and order and the petitioner fixed in category (B). Though the learned Assistant Government Pleader made an attempt to oppose the petition with the submissions that there was no proposal submitted before the Education Authorities for issuance of advertisement to fill up the posts, the affidavit-in-reply filed on behalf of the respondent No. 2 Shri. Shantaram Dusane, the Superintendent in the office of the Education Officer (Secondary), Zilla Parishad, Dhule clearly states that it is admitted by the deponent that the respondent No. 4 - Headmaster has submitted an application for granting permission for issuing public advertisement. There is also no merit in the submission of the learned Assistant Government Pleader in opposition to submit that the Management failed to absorb the surplus teachers. There is nothing placed on record along with the affidavit-in-reply to show that such a situation was pointed out to the Management and the Management was ever directed by the Education Officer to absorb the surplus teachers and any such list or name of the surplus teachers was sent to the Management.

4. Considering all these above aspects, we are of the opinion that the petition deserves to be allowed. Accordingly, the Writ Petition is allowed in terms of prayer clause (B) of the Writ Petition.

5. Rule is made absolute in the above terms with no order as to costs.

**( MANISH PITALE )**  
**JUDGE**

**( PRASANNA B. VARALE )**  
**JUDGE**

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