

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11116 OF 2017

Deepak Dnyanoba Rohile

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

WITH

WRIT PETITION NO. 11114 OF 2017

Sachin Gopalrao Garad

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

WITH

WRIT PETITION NO. 11134 OF 2017

Madhuri Sumantrao Kondhare

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri Vijaykumar G. Shelke a/w Shri R. K. Ashtekar, Advocate for the Petitioners.

Mrs. A. V. Gondhalekar, Addl. G. P. for Respondent Nos. 1 to 3.

Mrs. Yogita M. Kshrisagar, Advocate for Respondent Nos. 4 and 5.

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

DATE : 26th February, 2018

PER COURT :

1. Learned advocate for the petitioners submits that after

following due selection process the petitioners were appointed for English, Maths and Science subjects from general category. The ban on recruitment does not apply for filling in the posts of English, Maths and Science subjects. The learned advocate further submits that, the proposal seeking approval to the appointment of petitioners are rejected only on the ground that surplus candidates were not absorbed or that there was ban on recruitment.

2. Mrs. Kshirsagar, learned advocate for the respondent – management submits that the respondent had given application seeking permission to fill in the posts to the Education Officer on 10th June, 2013. The Education Officer has forwarded three surplus teachers. The management has absorbed the surplus teachers. Thereafter, the advertisement was issued on 28th July, 2013 and after following due selection process, the petitioners were appointed on 21st August, 2013.

3. Learned Additional Government Pleader submits that there was ban on recruitment. The petitioners could not have been appointed during this period.

4. It would appear that the respondent – institution had absorbed three surplus teachers and the petitioners are appointed for English, Science and Maths subject for which the ban on recruitment does not apply.

5. It appears that even application was given by the institution seeking permission to fill in the posts. Thereafter, advertisement was given and the petitioners are appointed on 21.8.2013. The respondent – institution has followed the procedure.

6. Considering the above, the impugned order is quashed and set aside. The respondent – Education Officer shall decide the proposal seeking approval to the appointment of the petitioners afresh, expeditiously and preferably within four (4) months. The Education Officer shall not reject the proposal on the ground that Section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 was not followed or that surplus candidates were required to be absorbed or that there was ban on recruitment.

7. The writ petitions accordingly stand disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

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