

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

WRIT PETITION NO. 12866 OF 2017

Smt. Sharmila D/o Mansaram Nikumbhe & Ors. ... Petitioners

VERSUS

The State of Maharashtra & Ors. ... Respondents

.....
Mr V. S. Panpatte, Advocate for the petitioners
Mr P. S. Patil, AGP for respondent/State
Mr S. S. Patil, Advocate for respondents No. 4 and 5
.....

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

DATE : 08TH JANUARY, 2018.

ORDER:

1. It is submitted by the learned counsel for the petitioner that, respondent No. 5 has submitted proposal seeking approval to the appointment of the petitioners as Shikshan Sevak. All the petitioners are appointed from the reserved category after following due process of law. Pursuant to the advertisements dt. 07.06.2012 & 11.11.2012, the petitioners had applied and after following due selection process are appointed. It is submitted that, prior to the advertisements, the application was given by the Institution on 21.05.2012 and 30.10.2012 seeking permission from the Education

Officer to fill in the posts. On the covering letter of the proposal, the Education Officer made an endorsement that the proposals are returned back on account of Govt. Resolution dt. 02.05.2012 and 20.06.2014. According to learned counsel, the ban on recruitment does not apply for filling in the posts from reserved category. The six vacancies are filled in as per the roster.

2. Mr S. S. Patil, learned counsel for the Institution supports the cause of the petitioner.

3. Mr P. S. Patil, learned AGP submits that, considering that the appointment of the petitioners are made during the ban period, the order is rightly passed.

4. The Education Officer will have to consider as to whether the proper procedure has been followed while granting appointments so also the roster. However, on the ground that there was ban on the recruitment as per Govt. Resolution dt.02.05.2012, the proposals could not have been rejected as the appointments are from reserved category and that application was given by the Institution seeking permission to fill in the posts and there was no response from

Education Officer nor till the petitioners are appointed any surplus candidates are sent.

5. Considering the above, we pass the following order.

ORDER

- (i) The Institution shall resubmit the proposal to the Education Officer within a period of four weeks from today.
 - (ii) The Education Officer shall decide the said proposal on its own merits and shall not reject it on the ground of ban on recruitment, however, will be entitled to consider adherence to the selection process and the adherence to the roster while filling in the posts.
 - (iii) The decision shall be taken by the Education Officer expeditiously, preferably within six months from the date of receipt of proposal.
6. The writ petition stands disposed of accordingly. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde