

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

WRIT PETITION NO. 13588 OF 2017

Sagar Popat Sonwane & anr.

Petitioners.

Versus

State of Maharashtra and ors.

Respondents.

Mr. V.S. Panpatte, Advocate for the petitioners.

Mr. S.G. Karlekar, A.G.P. for the State/respondent Nos.1 & 2.

Mr. Dinesh Pande, Advocate holding for

Mr. D.S. Bagul, Advocate for respondent No.3.

CORAM : **S.V. GANGAPURWALA &
SUNIL K. KOTWAL, JJ.**

Dated : **2nd August , 2018.**

FINAL ORDER :-

. Learned Counsel for the petitioner submits that respondent No.4 had applied to the Education Officer seeking permission to fill in the post on 25.04.2016. No decision was taken on the said proposal by the Education Officer. Thereafter advertisement was issued on 07.06.2016. The petitioners applied pursuant to the advertisement and after following selection process, the petitioners were appointed on 16.06.2016 as Shikshan Sevaks.

Both the petitioners belong to O.B.C. Category. Petitioner No.1 is appointed to teach Science subject and petitioner No.2 is appointed to teach Maths subject. Learned Counsel for the petitioner also relies on the Government Resolution dated 13th March 2018 to submit that for the appointments, that are made in Higher Secondary, the relaxation has been granted and even those appointments made without obtaining No Objection Certificate, are being considered for grant of approval.

2. The learned Counsel for the petitioners further submits that subsequently the proposal is forwarded in July 2018 recommending the names of petitioners for grant of approval to the Director of Higher and Higher Secondary Education.

3. Mr. Karlekar, learned Addl. Government Pleader submits that the appointments of the petitioners are not according to the procedure prescribed under Rule 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules and the date of newspaper is not seen and the same is not a widely circulated newspaper. The permission has not been granted to Institution to fill in the post.

4. We have considered the submissions.

5. It is not disputed that the appointments of the petitioners are as per the roster. In the affidavit also the same is admitted that the petitioners are appointed for teaching Science and Maths subjects and both belong to O.B.C. Category. It is submitted that their appointments are in Higher Secondary. In view of that, the Government Resolution dated 13th March 2018 would apply. The permission sought by the Institution to fill in the posts on 25.04.2016 was not attended and for the first time it was rejected on 07.10.2017 i.e. after more than one year and six months.

6. Considering the relaxation granted in the Government Resolution dated 13.03.2018 and further the fact that the petitioners are appointed from reserved category and to teach Science and Math subjects, there would be no impediment to consider the case of the petitioners for grant of approval. It is further to be noted that the Deputy Director of Education has forwarded the names of the petitioners to Director of Education for consideration of grant of approval and for the further process.

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

8. Respondent No.2 shall consider the proposal seeking approval to the appointments of the petitioners and decide it within

four (04) months. The same shall not be rejected on the ground that the appointments are without permission or that the proper procedure is not followed.

9. Writ Petition is accordingly disposed of. No costs.

(SUNIL K. KOTWAL)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

vdd/