

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

WRIT PETITION NO. 13319 OF 2017

Sachin s/o Govind Musale
Age 39 years, Occu. Service as
Assistant Teacher,
r/o Vrindavan colony,
Nizampur-Jaitane, Tq. Sakri,
District Dhule

..Petitioner

Versus

1. The State of Maharashtra,
through its Secretary,
School Education Department,
Mantralaya, Mumbai and ors.
2. Deputy Director of Education,
Nashik Region, Nashik
3. Nizampur-Jaitane Shikshan
Prasarak Mandal,
Nizampur-Jaitane, Tq. Sakri,
District Dhule, through
its Secretary
4. Adarsh Vidya Madir and
Junior College, Nizampur-Jaitane,
Taluka Sakri, District Dhule
through its Principal

..Respondents

Mr V.S. Panpatte, Advocate for petitioner
Mr A.V. Deshmukh, A.G.P. for respondents no.1 and 2
Mr I.D. Maniyar, Advocate for respondents no.3 and 4

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

DATE : 16th February 2018

PER COURT

1. The proposal seeking approval to the appointment of petitioner as Shikshan Sevak is rejected. Aggrieved thereby, the present writ petition.

2. Mr V.S. Panpatte, learned Advocate for the petitioner submits that by following due procedure of law, the petitioner was appointed. The institution had given an application seeking permission to fill in the post. The said application is not considered by the Deputy Director of Education. Advertisement is issued on 16.9.2013. After following the selection process, the petitioner was appointed from 30.9.2013 for the post meant for Other Backward Category. The petitioner has validity certificate belonging to Ladshakhiya Wani - O.B.C. The Deputy Director of Education rejected the proposal on the ground that no objection certificate is not obtained and that proper procedure is not followed. The same is erroneous and contrary to the letter dated 7.10.2017 issued by the Deputy Director Education, Nasik Region, Nasik.

3. The learned A.G.P. submits that the screening test was also not held by the management while appointing the petitioner. No proper procedure was followed. Rule 9 (7) and (8) of the Maharashtra Employees of Private Schools (Condition of Services) Regulation Act is also not followed. At the relevant time, there were surplus candidates available, the petitioner could not have been appointed. The order refusing approval to the appointment of the petitioner is rightly opposed. The management failed to produce necessary documents to show that interview process was followed.

4. The petitioner, it appears, is appointed from O.B.C. category. The petitioner has validity certificate of belonging to O.B.C. The advertisement is issued on 16.9.2013 and the appointment order is

issued on 30.9.2013. The letter dated 7.10.2017 issued by the Deputy Director of Education to the institution clearly states that application was given by the institution to fill in the post in Junior College. In view of that, it was erroneous on the part of the Deputy Director of Education to observe that no objection was not taken.

6. Consider the above, we pass the following order:

(I) The impugned order dated 23.10.2013 issued by respondent no.2 - Deputy Director of Education, Nashik Region, Nashik to the extent of petitioner refusing to grant approval to the appointment of the petitioner is quashed and set aside.

(II) The respondent no.2 - Deputy Director of Education shall decide the proposal seeking approval to the appointment of petitioner as Shikshan Sevak afresh and shall not reject it on the ground that permission was not sought or that surplus candidates were available. The management is at liberty to place before the Deputy Director of Education all the documents showing that the proper procedure was adhered to while selecting the petitioner.

7. Writ Petition accordingly disposed of. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)