

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15166 OF 2017

Priyanka Tarachand Chavan

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri U. R. Awate h/f Shri Shivkumar K. Mathpati, Advocate for the Petitioner.

Shri S. G. Karlekar, A.G.P. for Respondent Nos. 1 to 3.

Shri Ajinkya Reddy h/f Shri P. A. Salvi, Advocate for Respondent Nos. 4 and 5.

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

DATE : 11th June, 2018

PER COURT :

1. Mr. Awate, learned counsel for the petitioner submits that after following due procedure of law the petitioner is appointed from reserved category. The proposal seeking approval to the appointment of petitioner is rejected on the ground that there are surplus candidates and permission is not sought.

2. It is not disputed that the institution on 29th October, 2012, applied with the Education Officer seeking permission to fill in the post of Shikshan Sevak. No response was received from the Education officer. On 16.06.2013 the institution issued advertisement for filling in the post. Thereafter the appointment order is issued on 17.07.2013. The petitioner is appointed from reserved category. The Division Bench of this court at the Principal Seat at Bombay in group of writ petitions bearing Writ Petition No. 8587 of 2016 with connected writ petitions under order dated 10th July, 2017, had issued following direction -

“9. In the result the Writ Petitions are allowed and impugned orders are quashed and set aside. The Respondents – Education officers are directed to examine independent cases and grant approval to each of the teachers who fall in the following three categories:-

- (a) Where the recruitment process is already commenced prior to GR dated 2nd May 2012;*
- (b) Where the appointments made for filling up vacancies in English, Mathematics and Science;*
- (c) Where the recruitment is made to fulfil the backlog of reserve categories candidates;”*

3. In the present case the same would apply, as the petitioner has been appointed to fill the backlog of reserved category candidates.

4. Of course, the respondent – Education Officer will have to see that the proper procedure was followed at the time of selection and the qualification possessed by the petitioner.

5. Considering the above, the impugned order is quashed and set aside. The Education Officer shall reconsider the proposal of the petitioner for approval. The Education officer may consider the roster, the availability of the post, the qualification and shall decide the same on its own merits, as per law, however, shall not reject it on the ground that prior permission was not obtained or that there was ban on recruitment or that there are surplus candidates. The same shall be decided expeditiously and preferably within six (6) months.

6. Writ Petition accordingly stands disposed of. No costs.

[SUNIL K. KOTWAL, J.]
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[S. V. GANGAPURWALA, J.]