

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14853 OF 2017

Sachin Shivraj Shinde

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri V. S. Panpatte, Advocate for the Petitioner.

Shri A. V. Deshmukh, A.G.P. for Respondent Nos. 1 and 2.

Shri Irfan D. Maniyar, Advocate for Respondent Nos. 3 and 4.

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

DATE : 26th June, 2018

PER COURT :

1. The proposal seeking approval to the appointment of the petitioner as 'Shikshan Sevak' is rejected.

2. It is submitted that the management sought permission for filling in the post under application dated 1st July, 2015.

However, no response was received from respondent no. 2 – Deputy Director of Education. Thereafter, on 2nd November,

2015, the post was advertised. It is further contention of learned counsel for the petitioner that after following due procedure the petitioner was appointed on 10th November, 2015, to teach Hindi subject. The petitioner is from Open category. The learned counsel also relies on the Government Resolution dated 13th March, 2018, to submit that there are no surplus candidates in higher secondary schools and the condition of seeking permission has been relaxed.

3. Learned Assistant Government Pleader submits that the application seeking permission was given after the post was filled in. According to the learned A.G.P., still there is a backlog of reserved category candidates, for filling in the backlog person from open category is appointed.

4. Mr. Maniyar, learned counsel for respondent nos. 3 and 4 submits that institution undertakes to fill in the backlog of reserved category candidates. The next post that would be filled in after following due procedure would be filled in of a reserved category candidate.

5. We have considered the submissions canvassed by the learned counsel for respective parties.

6. In view of the Government Resolution dated 13th March, 2018, the scenario would undergo change. Even the letter dated 27th November, 2015, of the Deputy Director of Education is relied to the effect that there are no more surplus candidates available. The said letter is at page no. 66 filed along with the affidavit of the respondent - State.

7. According to learned counsel for respondent nos. 3 and 4 – Institution and School, there are two posts vacant and the next post would be filled in from reserved category candidate. The said statement is accepted.

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

ORDER

I] The impugned order is quashed and set aside.

II] The Deputy Director of Education shall re-consider the proposal for approval and shall also consider the

Government Resolution dated 13th March, 2018.

III] The roster shall be verified and the Deputy Director of Education shall consider the proposal if at the time the petitioner was appointed, the vacant post for open category existed.

IV] The Deputy Director of Education shall not reject it on the ground that there is a backlog of reserved category candidates, as the institution has given assurance that there are two posts vacant and the next post would be filled in from the reserved category.

V] The Deputy Director of Education shall consider all other relevant aspects of the matter and decide it expeditiously and preferably within four (4) months.

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

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]

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