

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

WRIT PETITION NO. 16 OF 2017

Rekha tai Tanajirao Patil .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

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

Shri S. B. Yawalkar, Addl.G.P. for Respondent Nos. 1 to 3.

Shri U. B. Bondar, Advocate for the Respondent No. 4.

Shri Irfan D. Maniyar, Advocate for Respondent Nos. 5 and 6.

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

DATE : 16TH JULY, 2018.

FINAL ORDER :

. Mr. Panpatte, the learned counsel for the petitioner submits that, upon retirement of one teacher, the post become vacant. The institution applied to the Education Officer seeking permission to fill in the post on 19.11.2012. No response was received. Then advertisement was issued on 13.12.2012 and the petitioner was appointed. The petitioner possesses qualification of H.S.C. D. Ed. (English medium). The learned counsel further submits that, the proposal for grant of approval is rejected only on the ground that the appointment is after the ban period and the new post could not have been filled in. According to the learned counsel, the respondent No. 6/school is a Semi English

school and one teacher to teach maths subject in English language could have been appointed. He refers to Government Resolution dated 22nd November, 2007. According to the learned counsel, the surplus teacher was also not sent to the institution till the petitioner was appointed or even the proposal was submitted for approval. The ban on recruitment for teaching maths, science and English subject does not apply as per the G. R. dated 04th September, 2013.

2. Mr. Bondar, the learned counsel for the respondent No. 4 submits that, in the year 2017 surplus candidate was sent, but the same was not absorbed. According to the learned counsel the G. R. of the year 2008 would be applicable only to Zilla Parishad schools and not to the respondent No. 5/institution. The order is rightly passed.

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

4. The name of the respondent No. 6/school is also included in the Semi English medium schools, who are allowed to teach maths for students from 01st to 05th standards and Maths and Science subjects in English language for students of 06th to 08th standards as optional subjects. The same is annexed with the petition at page No. 46.

5. It also appears that, the application was given by the

institution seeking permission to fill in the post. However, no response was received from the Education Officer. Advertisement was published and subsequently the petitioner was appointed. For four years the respondent No. 4 did not sent any surplus candidate to the institution in whose place the petitioner was appointed. The G. R. dated 22nd November, 2007 also permits any English medium school or semi English medium school to have English as optional subject and the petitioner is appointed as such. The application seeking permission to fill in the post also states that, for 01st to 04th standards in English subject the teacher is required to be appointed and the petitioner possesses qualification of H.S.C. D. Ed. (English Medium).

6. Considering the above, the impugned order is quashed and set aside. The respondent No. 4/Education Officer (Primary) shall reconsider the proposal seeking approval to the appointment of the petitioner as Shikshan Sevak by considering G. R. dated 22nd November, 2007 and shall not reject it only on the ground that appointment is made after ban on recruitment or there were surplus candidates. The same be decided expeditiously and preferably within a period of four (04) months from today. The writ petition is disposed of. No costs.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]