

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

WRIT PETITION NO. 15299 OF 2017

Ashwinkumar Madhukar Sonwane

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr S.S. Manale, Advocate for petitioner

Mr S.G. Karlekar, A.G.P. for respondents no.1 and 2

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

DATE : 10th April 2018

PER COURT

1. The proposal seeking approval to the appointment of the petitioner as a Junior Clerk is rejected. According to the petitioner, he was appointed on 13.7.2012, after following selection process. The post became vacant on account of retirement of the person working as a Junior Clerk. The petitioner was terminated. The petitioner challenged the order of termination before the School Tribunal. School Tribunal allowed the appeal and directed reinstatement with continuity of services as Clerk. It is stated by the petitioner that the petitioner was thereafter reinstated and again the proposal was submitted to the Education Officer. The proposal is rejected on the ground that the appointment is during the period of ban and that there is further ban to appoint the non-teaching staff. So also the same is without taking permission from the Education Officer.

2. We have heard the learned Counsel for the petitioner and learned A.G.P.

3. It appears that the appeal of the petitioner is allowed by the School Tribunal directing reinstatement with continuity of services. The management had applied to the Education Officer seeking permission to fill in the post and the same it appears has been accorded on 12.8.2012.

4. Be that as it may. The Government Resolution dated 23.10.2013 is stayed and under the Government Resolution of the year 2015, it is stated that the status quo should be maintained. Petitioner is appointed prior to issuance of Government Resolution 23.10.2013 on the post becoming vacant on account of retirement of a Junior Clerk working therein. Of course, the staffing pattern as on the date the petitioner was appointed will have to be considered. The petitioner was appointed pursuant to an advertisement.

5. Considering the above, the impugned order dated 4.9.2017 passed by respondent no.2 - Education Officer (Secondary), Zilla Parishad Osmanabad is quashed and set aside. The Education Officer shall consider the proposal seeking approval to the appointment of the petitioner afresh and shall decide it on its own merits within a period of four months. The Education Officer shall not reject the proposal on the ground on which it was rejected.

6. Writ Petition is accordingly allowed. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)