

BGP

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2429 OF 2018

Kanbur Rajashree Laxman

..Petitioner

Versus

The State of Maharashtra and Ors.

..Respondents

Mr. Akhil Kupade I/by Manoj Harit & Co., Advocate for the Petitioner.
Mr. V. M. Mali, AGP for Respondent Nos. 1 to 4/State.

**CORAM: B. R. GAVAI &
M. S. KARNIK, JJ.**

DATE: 26th OCTOBER, 2018

ORAL JUDGMENT: (Per B.R. Gavai, J.)

1] Rule. Rule is made returnable forthwith. Heard by consent of parties.

2] By way of the above Petition, Petitioner who is a teacher has approached this Court seeking direction to Respondent No.4 – Education Officer to grant approval to the appointment of the Petitioner with effect from 15/06/2011. The Petitioner has not been

granted approval on the ground that in view of Government Resolution dated 02/05/2012, there was a ban on recruitment of teachers and as such, appointments made by the management are illegal.

3] Mr. Mali, learned AGP appearing on behalf of Respondent Nos. 1 to 4, has vehemently opposed the Petition.

4] The issue is no more *res integra*. The Division Bench of this Court while deciding Writ Petition No.8587 of 2016 with connected Writ Petitions vide its judgment dated 10/07/2017 has observed in para 7 as under:-

“7. In that view of the matter, we find that in view of subsequent GRs and in view of the view taken by Division Bench of this Court, the ban would not be applicable to three categories, one where the recruitment process is already commenced prior to GR dated 2nd May, 2012, second, in so far as the appointment made for the subjects of English, Maths and Science are concerned and third, where the recruitment is made to fulfil the backlog of reserved category candidates.”

5] Perusal of the record would reveal that the Petitioner has been appointed on 10/06/2011, but she has joined the services with effect from 15/06/2011 as Shikshan Sevak. Not only this, the proposal for grant of approval is also submitted much prior to 02/05/2012. It is further submitted that the Petitioner belongs to OBC category. As such, the Petitioner is covered by the first category as well as the third category carved out by us.

6] In that view of the matter, the Petition is allowed. Respondents are directed to grant approval to the appointment of the Petitioner from the date she joined the services as Shikshan Sevak i.e. from 15/06/2011 for three years and thereafter as Assistant Teacher and to pay the Petitioner her regular salary from the month of November, 2018 and all arrears of salary from the date of appointment of the Petitioner till October, 2018 shall be cleared within a period of three months from today.

7] Rule is made absolute accordingly.

(M. S. KARNIK, J.)

(B. R. GAVAI, J.)