BGP

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2687 OF 2018

1] Shri. Siddheshwar Shikshan Prasarak
Mandal, Malangaon,
2] S. S. R. Shinde High School, Malangaon,
3] Smt. Sarika Vasant Patil ..Petitioners

Versus

The State of Maharashtra and Ors. ..Respondents

Mr. Prashant Bhavake for the Petitioners.
Mr. V. M. Mali, AGP for Respondent Nos. 1 to 5/State.

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

DATE: 19th 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 No.1 – Sanstha and Petitioner No.2 – School alongwith Petitioner No.3 - Teacher approached this Court being aggrieved by refusal by the Respondent – Education Officer to grant approval to the appointment of the

Petitioner No.3. The Petitioner No.3 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. V. M. Mali, learned AGP appearing on behalf of Respondent Nos. 1 to 5, 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 10th July, 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] Undisputedly, Petitioner No.3 is appointed to teach English with effect from 06/07/2013 and as such, she is squarely covered by the judgment of Division Bench of this Court, cited supra.

6] In that view of the matter, the Petition is allowed. The impugned order dated 09/08/2017 is quashed and set aside. Respondents are directed to grant approval to the appointment of Petitioner No.3 from the date of her appointment i.e. 06/07/2013 as a Shikshan Sevak for three years and thereafter as Assistant Teacher and to pay Petitioner No.3 her regular salary from the month of November, 2018 and all arrears of salary from the date of appointment of Petitioner No.3 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.)**