BGP

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9391 OF 2018

Savita Jayapal Gawade ..Petitioner

Versus

The State of Maharashtra and Ors. ..Respondents

Mr. Prashant Bhavake for the Petitioner.

Mr. S. B. Kalel, 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 who is a teacher has approached this Court being aggrieved by refusal by the Respondent – Education Officer to grant approval to the appointment of the Petitioner. 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. S. B. Kalel, 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 who belongs to NT-C Category is appointed to teach Science/Maths with effect from 01/01/2013 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 16/04/2018 is quashed and set aside. Respondents are directed to grant approval to the appointment of the Petitioner from the date of her appointment i.e. 01/01/2013 as a Shikshan Sevak 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.)**