

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

WRIT PETITION NO.10144 OF 2017

Dhiraj Vijay Bandgar

..Petitioner

Versus

State of Maharashtra and others

..Respondents

Mr. Chetan G. Patil, Advocate for the Petitioner.

Ms. Nisha Mehra, AGP for Respondent Nos.1 and 2 - State.

CORAM : B. R. GAVAI &

SMT. BHARATI H. DANGRE, JJ.

DATE : 27th FEBRUARY, 2018

PC.

1] Rule. Rule made returnable forthwith. Heard by consent.

2] The Petitioner has approached this Court being aggrieved by the order dated 28th July 2017, thereby rejecting the proposal for grant of approval to the Petitioner's appointment.

3] In the affidavit in reply, the Education Officer has justified the rejection on the following grounds ; i) That there was backlog of SC and ST and as such the Petitioner belongs to NT(C), could not have been appointed ii) Prior permission was not taken to advertise iii) The appointment is made after 2nd May 2012 and as such it is contrary to the said Government Resolution.

4] The issue is no more res-integra. The Division Bench of this Court in Writ Petition No.8587 of 2016 has held thus :-

“9. In the result the Writ Petitions are allowed and impugned orders are quashed and set aside. The Respondents – Education Officers are directed to examine independent cases and grant approval to each of the teachers who fall in the following three categories:-

(a) Where the recruitment process is already commenced prior to GR dated 2nd May 2012;

(b) where the appointments made for filling up vacancies in English, Mathematics and Science;

(c) where the recruitment is made to fulfill the backlog of reserve categories candidates;”

5] Undisputedly, the Petitioner's appointment is against the post reserved for NT(C). In so far as the objection of the Education Officer that there was also backlog of SC and ST is concerned, perusal of the roster of the Competent Authority which is placed on record at Page No.49 of the paperbook would reveal that, there was also backlog of NT(C). It is not as if that the Petitioner belongs to NT(C) has been appointed against a post of SC and ST and as such, said ground is without any substance.

6] In that view of the matter, the Petition is allowed. The

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impugned order dated 28th July 2017 is quashed and set aside. The Respondent – Education Officer is directed to grant approval to the Petitioner as Shikshan Sevak with effect from 13th August 2012, for a period of three years. After completion of three years, the Education Officer shall grant approval to the appointment of the Petitioner as Assistant Teacher.

7] The regular salary be paid to the Petitioner from the month of April 2018. The arrears upto March 2018 be cleared within a period of three months from today.

[SMT. BHARATI H. DANGRE, J.]

[B. R. GAVAI, J.]