

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

WRIT PETITION NO.12528 OF 2017

Shri. Hemantkumar Muralidhar Mali	..Petitioner
Versus	
The State of Maharashtra and others	..Respondents

**ALONGWITH
WRIT PETITION NO.13160 OF 2017**

Janseva Shikshan Sanstha, Savlaj,	
Taluka: Tasgaon, Dist: Sangli and others	..Petitioners
Versus	
The State of Maharashtra and others	..Respondents

Mr. Prashant Bhavake, Advocate for the Petitioners in both the Petitions.

Ms. Kavita Solunke, AGP for the Respondent – State in both the Petitions.

**CORAM : B. R. GAVAI &
SMT. BHARATI H. DANGRE, JJ.
DATE : 17th APRIL, 2018**

PC.

- 1]** Rule. Rule made returnable forthwith. Heard by consent.
- 2]** Since facts in both the cases are identical, same are heard and decided together.
- 3]** In Writ Petition No.13160 of 2017, the Petitioner No.3 was appointed as Shikshan Sevak by Respondent Nos.1 and 2, on 2nd July 2012 for subjects of Mathematics and Science. Prior to appointment, the permission was sought. However, the same was not responded.

Accordingly, the proposal came to be submitted for grant of approval as Shikshan Sevak. The said proposal was not accepted on account of the ban imposed by the Government Resolution dated 2nd May 2012. Finally the said proposal was accepted in 2015. By the impugned order dated 9th January 2017, the same came to be rejected.

4] In Writ Petition No.12528 of 2017, the Petitioner was appointed as Shikshan Sevak by the Respondent Nos.6 and 7 from 1st September 2012 again for the subject of Mathematics and Science. The said Petitioner belongs to OBC category, which is reserved category. In the present case also, the approval came to be rejected by the order dated 16th January 2017. Hence, the present Petition.

5] The Division Bench of this Court in bunch of Petitions being Writ Petition No.8587 of 2016 alongwith companion matters had an occasion to consider an identical issue. It will be relevant to refer to paragraph 9 of the said judgment :-

“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 fulfil the backlog of reserve categories candidates;”

6] It could thus clearly be seen that in the present case, candidates are covered by clause (b). The Petitioner in Writ Petition No.12528 of 2017 in addition is also covered by clause (c). She belongs to reserved category. In that view of the matter, the impugned orders are not sustainable. The impugned orders are therefore quashed and set aside.

7] The Petitioner in Writ Petition No.13160 of 2017 is directed to be granted approval as Shikshan Sevak with effect from 2nd July 2012, whereas the Petitioner in Writ Petition No.12528 of 2017 is directed to be granted approval as Shikshan Sevak with effect from 1st September 2012. Both the Petitioners would be entitled to be absorbed as Assistant Teacher on completion of three years period as Shikshan Sevak.

8] All the arrears to be cleared within a period of six weeks from today. No orders as to costs.

[SMT. BHARATI H. DANGRE, J.]

[B. R. GAVAI, J.]