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

WRIT PETITION NO.11787 OF 2017

Mahatma Phule Shikshan Prasarak
Mandal and Anr.

..Petitioners

Versus

State of Maharashtra and Ors.

..Respondents

Mr. Akhil Kupade I/b Manoj Harit and Co. for the Petitioners.

Mr. S.B. Kalel, AGP for Respondent Nos. 1 to 4.

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

DATE: 6th OCTOBER, 2018

P.C.:-

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

2] By way of the above Petition, Petitioner No.1 – Mahatma Phule Shikshan Prasarak Mandal, which is an educational Trust, alongwith Petitioner No.2 – School, which is run by Petitioner No.1, have approached this Court being aggrieved by refusal by the Respondent – Education Officer to grant approval to the appointment of Mr. Baliram Kamlakar Jadhav and Mrs. Jyoti Nagnath Waghmare who

have been appointed by them as Shikshan Sevaks. They have 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. Kalel, learned AGP appearing on behalf of Respondent Nos. 1 and 2, 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, Mr. Baliram Kamlakar Jadhav and Mrs Jyoti Nagnath Waghmare who have been appointed by the Petitioners as Shikshan Sevaks with effect from 01/07/2014 belong to Scheduled Caste (S.T.) category and as such, they are 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 orders dated 03/10/2017 are quashed and set aside. Respondents are directed to grant approval to the appointment of Mr. Baliram Kamlakar Jadhav and Mrs Jyoti Nagnath Waghmare from the date of their appointment i.e. 01/07/2014 as Shikshan Sevaks for three years and thereafter as Assistant Teachers and to pay both of them their regular salary from the month of November, 2018 and all arrears of salary from the date of their appointment 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.)