

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

**WRIT PETITION NO. 14150 OF 2017**

Shri Shewale Rahul Yashwant & Anr.

.. Petitioners

Vs.

State of Maharashtra & Ors.

.. Respondents

Mr.N.V. Bandiwadekar with Mr.Vinayak Kumbhar I/b Neha N. Bandiwadekar for petitioners.

Mr.S.S. Panchpor, AGP for respondent Nos.1 to 3.

**CORAM : B.R. GAVAI &**

**M.S. KARNIK, JJ.**

**DATE : 24<sup>TH</sup> OCTOBER 2018**

**ORAL JUDGMENT : (PER B.R. GAVAI, J.)**

1 Pursuant to the directions issued by this Court on 16<sup>th</sup> October 2018, Shri Mohan Desale, Education Officer (Secondary), Palghar is personally present in Court. Shri Mohan Desale has also filed an affidavit of the even date tendering unconditional apology.

2 We accept the apology and hereby discharge the notice issued to Shri Mohan Desale, Education Officer (Secondary), Palghar.

3 Rule. Rule is made returnable forthwith.

4 By way of the above petition, petitioner No.1, who is a teacher, has approached this Court along with petitioner No.2 Shram Pratishthan, Maswan, Taluka & Dist. Palghar being aggrieved by refusal by the

respondent-Education Officer to grant approval to the appointment of the petitioner No.1. Petitioner No.1 has not been granted approval on the ground that in view of Government Resolution dated 2<sup>nd</sup> May 2012, there was a ban on recruitment of teachers and as such, appointments made by the management are illegal.

5 Mr.Panchpor, learned AGP appearing on behalf of Respondent Nos. 1 to 3 vehemently opposed the Petition.

6 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 10<sup>th</sup> July, 2017, in para 7 has observed 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 2<sup>nd</sup> 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 fulfill the backlog of reserved category candidates.”*

7 Undisputedly, petitioner No.1 belongs to Scheduled Class (S.C.) category and is appointed to teach Science subject with effect from 15<sup>th</sup> June 2012 and as such, he is squarely covered by the judgment of Division Bench of this Court, cited supra.

8 In that view of the matter, the Petition is allowed.

The impugned order dated 24<sup>th</sup> February 2016 is quashed and set aside. Respondents are directed to grant approval to the appointment of Petitioner No.1 from the date of her appointment, i.e., 15<sup>th</sup> June 2012 as Shikshan Sevak for three years and thereafter as Assistant Teacher and to pay the Petitioner No.1 her regular salary from the month of November 2018 and all arrears of salary from the date of appointment of petitioner No.1 till October 2018 shall be cleared within a period of three months from today.

9 Rule is made absolute accordingly.

**(M.S. KARNIK, J.)**

**(B.R. GAVAI, J.)**