

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 883 OF 2018

Rajkumar Sopan Jadhav

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. V.G. Kodale, Advocate holding for
Mr. V.D. Gunale, Advocate for Petitioner
Mr. S.K. Tambe, Assistant Government Pleader
for Respondent Nos. 1 and 2

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVALA, JJ.**

DATE : 3rd APRIL, 2019

ORAL ORDER:

1. The proposal seeking approval to the appointment of the petitioner as Peon is rejected.
2. It appears that the proposal is rejected only on the ground that no objection was not obtained and unless 100 % surplus candidates are absorbed, approval cannot be granted in view of the Government Resolution dated 2nd May, 2012.
3. We have heard the learned Counsel for the petitioner and the learned Assistant Government Pleader.

4. The appointment of the petitioner was on 1st September, 2011. The letter dated 29.10.2011 issued by the Education Officer itself allows the Institution to fill in the post as per the staffing pattern. However, if new posts are created, the sanction of the Government is to be obtained.

5. The petitioner was appointed on the existing post. The petitioner is appointed as a Peon. Of course, the respondent has to consider the adherence to the selection procedure.

6. The Government Resolution dated 2nd May, 2012 would not apply as the appointment of the petitioner is much prior to the Government Resolution i.e. 01.09.2011. The Education Officer has also granted the permission.

7. The petitioner belongs to Nomadic Tribe Category. The learned Counsel submits that the petitioner has been issued validity certificate also.

8. In light of the above, the impugned order is quashed and set aside. The respondent-Education Officer shall reconsider the proposal seeking approval to the appointment of the petitioner on its own merits, after satisfying itself that the advertisement was issued, the selection procedure was followed. However, shall not be rejected

on the ground on which the impugned order was passed. The same shall be decided expeditiously and preferably within a period of four months.

9. The Writ Petition is disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

mta