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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1332 OF 2019

Sow. Shital D/o Vinayak Mete,
Age: 35 years, Occ: Service, in
Jaybhavani Vidyalaya, Para,
R/o. Para, Tq. Washi,
Dist. Osmanabad.

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
School Education Department,
Mantralaya, Mumbai-32.
2. The Education Commissioner,
Balbharti, Senapati Bapat Marg,
Maharashtra State Pune.
3. The Education Officer (Secondary),
Zilla Parishad, Osmanabad.
4. The Secretary,
Dnyan Prasark Mandal, Yermala,
Tq. Kallam, Dist. Osmanabad.
5. The Secretary,
School Committee, Jay Bhavani
Vidyalaya, Para, Tq. Washi,
Dist. Osmanabad.
6. The Head Master,
Jaybhavani Vidyalaya, Para,
Tq. Washi, Dist. Osmanabad.

..RESPONDENTS

Mr Suryakant S. Pawar, Advocate for petitioner;
Mr A.R. Kale, Advocate for respondent/State

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**CORAM : PRASANNA B. VARALE
AND
S.M.GAVHANE, JJ.**

DATE : 30th JANUARY, 2019

ORAL ORDER :

Heard learned Counsel appearing for the petitioner.

2. Considering the issue involved in the petition, the petition is taken up for hearing/disposal by consent of the parties.

3. By way of present petition, the petitioner challenges the order passed by the Education Officer (Secondary), Zilla Parishad, Osmanabad, dated 29th August, 2018 thereby proposal submitted by the institute through Head Master for grant of approval to the petitioner is rejected. The reasons assigned for rejection are, institute failed to absorb teachers, ban was operating, institute - management failed to obtain permission for

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advertisement and then interestingly enough, the Education Officer also refers to the Government decision of 2017 and 2018 to state that presently for appointment, on line process is made applicable and portal is developed namely, '*pavitra pranali*'.

4. Learned Counsel for the petitioner submits that the order passed by the Education Officer only show mechanical approach of the authority. Learned Counsel invited our attention to the documents placed on record. An advertisement was issued in the newspaper namely, '*Dainik Ekmat*' on 31st July, 2014.

5. The petitioner is possessing qualification of B.A. B.Ed. at the relevant time and submitted her application. The petitioner was selected and was appointed as *Shikshan Sevak*. The copy of the appointment order is also placed on record at page-25. There is also document placed on record at Exhibit-B, whereby the Head Master informed the Secretary of the society that though proposal is

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submitted to the Education Officer, the Education Officer refused to accept the proposal. There is also reminder by the Head Master to the Secretary dated 16th November, 2015.

6. Interestingly enough, the petitioner approached this Court with a prayer seeking directions to the institute for forwarding the proposal.

7. It was specifically stated before this Court on behalf of the institute that though institute submitted proposal twice, the Education Officer had not accepted the proposal. This statement is recorded in the order of the Division Bench of this Court on 23rd July, 2018 in Writ Petition No. 3847 of 2018. The Division Bench permitted the institute to submit a fresh proposal and further directed the Education Officer to decide the proposal. The rejection order show that proposal was submitted by the Head Master on 18th August, 2018. Learned Counsel then submitted that

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the issuance of rejection order is on the ground of operation of ban and appointment of teachers to teach English, Mathematics and Science subjects and teachers who were appointed from the category of Scheduled castes and scheduled tribes candidate were before this Court and the Division Bench at Principal Seat, Mumbai in Writ Petition No.8587 of 2016 with connected writ petitions, dated 10th July, 2017 dealt with that issue and the petitions were allowed.

8. Learned Counsel for the petitioner invited our attention to the judgment of the Division Bench of this Court in Writ Petition No.372 of 2018 delivered on 18th December, 2018. The Division Bench, while referring to earlier decision of the Division Bench at Principal Seat, Mumbai (Coram: B.R. Gavai and Riyaz I. Chagla, JJ.) in Writ Petition No.8587 of 2016 with connected writ petitions, dated 10th July, 2017, further observed that petitioner No.2 in Writ Petition No.372 of 2018 was appointed to teach Marathi subject. The

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Division Bench, resultantly allowed the petition and orders passed by the Education Officer rejecting the proposal for grant of approval is quashed and set aside.

9. Thus, it is submission of learned Counsel for the petitioner that the petitioner is similarly circumstanced with petitioner No.2 in Writ Petition No.372 of 2018.

10. Considering all these aspects, we are of the opinion that learned Counsel for the petitioner has made out a case. The order impugned in the petition is clearly unsustainable. Resultantly, the petition is allowed in terms of prayer clause (B) and disposed of accordingly.

(**S.M.GAVHANE**)
JUDGE

(**PRASANNA B. VARALE**)
JUDGE