

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2436 OF 2018

Ravikant S/o Atmaram Deshmukh and Ors. ...Petitioners

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. V.S. Panpatte, Advocate for Petitioners

Mrs. G.L. Deshpande, Advocate for Respondent/State

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

DATE : 18th FEBRUARY, 2019

ORAL ORDER:

1. The proposal seeking approval to the appointment of the petitioner as a Shikshan Sevak is rejected. Aggrieved thereby the present writ petition.

2. It is contended that the Institution had given application on 26.09.2013 seeking permission to fill in the posts from general open category. No response was received. According to the petitioners, thereafter, advertisement was issued on 15.11.2013 and the petitioner was appointed after having participated in the selection process.

3. The approval is rejected basically on the ground that no permission from the Education Officer was obtained and there was backlog of the reserved category candidates so also there was a ban on recruitment.

4. We had specifically asked the learned Assistant Government Pleader as to whether the Education Officer received application dated 26.09.2013 seeking permission to fill in the post. The learned Assistant Government Pleader accepts that the said application was received by the Education Officer. The Education Officer did not respond to the said application, and thereafter, advertisement was issued and the petitioner was appointed.

5. In the order, it is observed that one post for Scheduled Caste and one for NT-D-1 category are not filled in, though as per roster, the backlog exists. According to the petitioner, the candidate of SC and NT-D-1 are already appointed and even approval is granted to the SC candidate and the approval of NT-D-1 is pending with the Education Officer.

6. Considering the above, we pass the following order :-

- (i) The impugned order is quashed and set aside.
- (ii) The respondent - Education Officer shall reconsider the proposal seeking approval to the appointment of the petitioner and shall not reject it on the ground that provisions of section 5(1) of the

Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 are not followed and there was ban on recruitment. However, shall consider about the availability of the post for open category candidate at the relevant time. So also shall consider all other relevant aspects of the matter.

(iii) The proposal shall not be rejected on the ground on which the impugned order is passed. The same shall be decided on its own merits expeditiously, and preferably within a period of four months.

(iv) The writ petition is disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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