

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

WRIT PETITION NO. 2372 OF 2018

Bharat Madhukar Kulkarni .. Petitioner

Versus

Education Officer Zilla Parishad
Ahmednagar and others .. Respondents

Shri Sushant V. Dixit, Advocate for the Petitioner.
Shri S. M. Ganachari, A.G.P. for Respondent Nos. 1 and 4.
Shri L. V. Sangeet, Advocate for Respondent Nos. 2 and 3.

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

DATE : 22ND JANUARY, 2019.

FINAL ORDER :

. The proposal seeking approval to the appointment of the petitioner as a peon is rejected under order dated 10.10.2017.

2. We have heard the learned counsel for the petitioner and the respondents. Reference is made to the judgment and order of the Industrial Court in ULP No. 67 of 2011, wherein it is held by the Industrial Court that the petitioner is working since 20th July, 2005 with the respondent/institution and directions were given by the Industrial Court to the institution to submit the proposal to the Education Officer.

3. The Education Officer has rejected the proposal on the basis of Government Resolution dated 12.02.2015 and Circular dated 08th August, 2017. The Government Resolution dated 12.02.2015 would not apply in the present case, as the petitioner's appointment is of the year 2005 and the post become available in the year 2012. As per the contention of the petitioner and the management, if the post was available in the year 2012 and the petitioner is to be considered from 2012, then G. R. dated 12th February, 2015 would not be made applicable to the petitioner. On the contrary it is directed status quo to be maintained with regard to appointments made as on 23rd October, 2013.

4. The circular dated 08th August, 2017 also deals with the appointments of the Shikshan Sevaks and the Assistant Teachers and not to non teaching staff. The petitioner is appointed as non teaching staff.

5. In the light of the above, reasons given in the impugned order cannot be sustained and the impugned order is set aside. The Education Officer shall decide the proposal of the petitioner afresh and shall not reject the same on the grounds on which the impugned order is passed. The same shall be decided expeditiously and preferably within a period of three (03) months

from today.

6. In the light of the above, the writ petition is disposed of.
No costs.

[A. M. DHAVALA, J.]

[S. V. GANGAPURWALA, J.]

bsb/Jan. 19