

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

WRIT PETITION NO. 5730 OF 2018

Rajshree Shivraj Patil

.... Petitioner

Versus

The State of Maharashtra & Ors.

... Respondents

.....

Shri. Santosh S. Jadhavar, Advocate for the petitioner  
Mr S. K. Tambe, AGP for respondent/State

.....

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

**DATE : 21<sup>ST</sup> JANUARY, 2019**

**ORAL ORDER:**

1. The petitioner seeks directions against the respondents to grant permanent approval to the appointment of the petitioner as an Assistant Teacher, so also to release the salary for the academic year 2010-11 to 2014-15.

2. Mr Jadhavar, the learned counsel for the petitioner submits that, the petitioner was appointed under the appointment order dt. 10.06.2006 as an Assistant Teacher in the respondent - Post Basic Ashram School. Every time, the appointment of the petitioner is

approved for one year. Thereafter, under order dt. 06.01.2015, the petitioner's appointment is approved from June-10 to April-2011. Thereafter, under order dt. 06.06.2015, the petitioner's appointment is approved upto the year 2014-15. The learned counsel submits that, after lapse of two years, the permanent approval should have been granted. Except the petitioner, all the other persons have been granted permanent approval subsequently. It is the contention of the learned counsel for the petitioner that, it is erroneous on the part of the State to contend that, one post for Scheduled Tribe is not filled in. The petitioner is appointed in June-2006. At the relevant time, as per the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (hereinafter referred to as "MEPS Rules), only 33% reservation was permissible and the same ought to have been considered. The appointments of all the Assistant Teachers are made prior to year 2008. It is further submitted that, the roster relied is improper and not in consonance with the MEPS Rules.

3. Mr Tambe, the learned Assistant Government Pleader submits that, the petitioner's appointment is as against the post reserved for ST category. The approval has been wrongly granted and as such the steps are taken against the said person granting approval. The roster has been approved by the B.C. Cell. As per the roster, one

post is for ST category. The petitioner cannot be granted approval as against the post reserved for ST category. No error has been committed.

4. In case the respondent-school is a Post Basic Ashram School, then MEPS Rules apply. The amendment is introduced on 08.07.2008 enhancing the reservation to 52%. The reservation as on the date of appointment of the petitioner shall have to be considered. Before the amendment came into force, the petitioner became a deemed permanent employee. The said aspect was also required to be considered by the authorities. The same appears to have been not considered.

5. The Management shall submit fresh proposal seeking permanent approval to the appointment of the petitioner. The respondent shall consider the reservation as on the date the petitioner is appointed and shall take decision on the proposal seeking permanent approval within three months from today.

6. It is not disputed that, the petitioner is working on the said post. The petitioner -management shall submit fresh salary bills in respect of the payment of the salary to the petitioner from 2010-11 to

2014-15. On receipt of the same, the decision shall be taken within two months on the said salary bills.

7. Depending upon the decision given on the proposal seeking permanent approval, the further steps be taken immediately.

8. The writ petition is accordingly disposed of. No costs.

**[ A. M. DHAVALA ]**  
**JUDGE**

**[ S. V. GANGAPURWALA ]**  
**JUDGE**

Punde