

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

WRIT PETITION NO. 4202 OF 2018

Anand S/o. Sopanrao Jondhale Petitioner

Versus

The State of Maharashtra & Ors. Respondents

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Appearances :-

Shri. V. P. Kadam, Advocate for the petitioners

Shri. A. B. Girase, GP for respondent/State

Shri. K. D. Bade Patil, Advocate for respondents No. 4 & 5

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**CORAM : S. V. GANGAPURWALA
AND
ANIL S. KILOR, JJ.**

DATE : 07TH OCTOBER, 2019

PER COURT:-

1. The petitioner is appointed as an Assistant Teacher for the academic year 2007-08, in the Secondary School. It is the case of the petitioner that, he worked continuously. On or about 27.06.2014, the approval was granted to the appointment of the petitioner from 01.04.2009 till 30.04.2014. The learned counsel submits that, subsequently the proposal for approval is rejected. According to the learned counsel, the petitioner had also approached the Divisional Deputy Commissioner, Social Welfare, Latur, where the appellate authority directed to grant approval to the appointment of the

petitioner from 01.05.2009 upto the further period. The said judgment is delivered on 11.03.2014. According to the learned counsel, the same appellate authority thereafter rejected the approval on 27.02.2018. The learned counsel submits that, the post was reserved for ST category, the petitioner belongs to SC category. For more than five years, the candidate is not received to fill in the post of ST category, the petitioner is entitled for appointment in view of the Rule 9(9) of the MEPS Rules, 1981.

2. Shri. Bade Patil, learned counsel for the institution supports the contention of the petitioner and submits that, it is the respondent who had forwarded the proposal of the petitioner.

3. Shri. Yawalkar, the learned AGP submits that, at the relevant time the post was not sanctioned. The procedure for appointment has not been followed. As against the ST post, the person from SC category has been filled in. The permission has not been obtained from the respondent-office. There are surplus teachers available. All these aspects are considered by the authority and has rightly rejected the proposal.

4. We have considered the submissions.

5. There appears to be an order of approval granted by the Regional Dy. Commissioner, Social Welfare, Latur, on 27.06.2014 approving the services of the petitioner for 01.05.2009 till 30.04.2014 i.e. for a period of almost five years. The petitioner it appears has approached this Court. This Court had directed the Regional Dy. Commissioner, Social Welfare, Latur to take decision. Pursuant thereto, the petitioner had approached the appellate authority i.e. Regional Dy. Commissioner, Social Welfare, Latur. The appeal of the petitioner was allowed and it was directed to grant approval to the services of the petitioner from 01.05.2009 till further period. Reliance was placed on Sub-rule (7) and Sub-rule (1) of Rule 9 of MEPS Rules, 1981. However, under the impugned order, the proposal seeking approval to the appointment of the petitioner is rejected.

6. It appears that the petitioner is working since 16.06.2007 as an Assistant Teacher in the Secondary School. His appointment is also approved on year-to-year basis. It also appears that the post was reserved for ST category and the petitioner belongs to SC category.

7. Naturally when the approval has been granted by the Regional Dy. Commissioner, Social Welfare, Latur, in 2014, it would be presumed that he has considered all the necessary requirements for grant of approval with the adherence to the procedure for appointment. The petitioner claims to belong to SC category. He also claims to possess the validity certificate of Scheduled Category. Almost for 12 years, the petitioner seems to be working. The approvals are granted from time to time to the petitioner. Now it would be too late in the day for the respondent/authority to contend that the procedure for the appointment was not followed. The petitioner also belongs to the reserved category i.e. Scheduled Category. In view of the Rule 9 of the MEPS Rules, if the candidate from one category is not available, in such case the reservation would be interchangeable.

8. Considering all the aforesaid aspects of the matter, the impugned order is quashed and set aside.

9. The respondents shall consider grant of approval to the appointment of the petitioner in case there is no other impediment. The grounds of rejection under the impugned order are set aside

and should not be again considered. The proposal shall be decided within three months from today.

10. The Writ Petition is accordingly disposed of. No costs.

[ANIL S. KILOR]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde