

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

(107) WRIT PETITION NO.8224 OF 2019

Rahul Sampat Bhokare

.. Petitioner

Versus

The State of Maharashtra
through its Secretary,
School Education and Sports
Department, Mantralaya,
Mumbai and ors.

.. Respondents

Mr S.K. Shinde, Advocate for petitioner
Mr S.P. Tiwari, A.G.P. for respondents no.1 and 2
Mr V.D. Sapkal, Advocate for respondent no.3

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

DATE : 30.09.2019

ORAL ORDER:

1. At the request of learned Counsel for the petitioner, leave to amend the prayer clause.
2. The petitioner assails the order dated 26.6.2019, rejecting the proposal for approval to the appointment of the petitioner as a Shikshan Sevak on the ground that Pavitra Portal has come into existence from 23.6.2017 and appointment of the petitioner is not previous to Pavitra Portal.
3. We have heard Mr Shinde learned Counsel for the petitioner, Mr Sapkal, learned Counsel for respondent no.3 and learned A.G.P.

4. It appears that the petitioner was appointed on clock hour basis in respondent no.4 Junior College on 12.6.2009 and continued as such. Thereafter, on 5.6.2014, petitioner was appointed as Part Time Lecturer from 16.6.2014 to 15.6.2017 as the workload was available. Thereafter, advertisement was published for appointment of Lecturer. The petitioner applied for the said post. He was selected and was appointed on 1.8.2018 as a Shikshan Sevak. The said proposal is negatived.

5. The reliance is placed by the petitioner on Circular dated 31.1.2001 to contend that as and when full time posts are available, the part time teacher can be appointed as full time teacher. The Circular is issued by the School Education Department. Learned Counsel for petitioner also placed reliance on the judgment of this Court in Writ Petition no.6907 of 2011 dated 19.12.2011, so also on the judgment of another Division Bench of this Court in case of Uddhav Trimbak Umbare Vs. The State of Maharashtra in Writ Petition No.9398 of 2012 dated 1.2.2013. The Government Circular dated 31.1.2001 reads thus :

“ The issue of appointing the Part Time Teacher working at Junior College level as Full Time Teacher if the full time post becomes available, was under consideration of the Govt. Now, subject to the conditions mentioned hereunder, the Part time teacher working in the post should be appointed as full time teacher if the post of full time teacher is created due to increase in work load.

(1) While working under one Management if the full time post is created in the same management, then observing the principles of need of subjects and reservation for backward classes, the "Part Time Teacher" working in that Post should be appointed as "Full Time Teacher".

(2) If the newly created post in the Management is reserved as per reservation and the Part-Time teacher is from upon category, he cannot be upgraded to the post of full time teacher. However, if the part time teacher is from category as per reservation, he can be appointed in the post of full time teacher.

(3) The part time teacher who has been appointed by the Management in the Govt. recognised pay scale and has obtained salary with Govt. approval in the year 1999-2000, such part time teacher will be entitled to receive pay scale of full time teacher from the date of appointment in the post of full time teacher."

6. Thus, it is clear that the person, who is working as Part Time teacher and if the full time post is available, the person can be appointed as full time teacher. The petitioner was not required to undergo the selection process also.

7. Considering the above, the respondents shall consider the proposal for appointment of the petitioner as a Shikshan Sevak, forwarded to it. The petitioner was entitled to be appointed as Shkshan Sevak having worked as Part time lecturer earlier. The impugned order is quashed and set aside. The Deputy Director of Education shall reconsider the proposal of the appointment of the

petitioner and shall not reject it on the ground of Pavitra portal or there was ban on recruitment. The decision shall be taken expeditiously, preferably within four months.

8. Writ Petition is accordingly disposed of. No costs.

(ANIL S. KILOR, J.)

(S.V. GANGAPURWALA, J.)

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