

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 9876 OF 2014**

Sayed Zeba Farheen Syed Athar Waseem,
 Age : 24 Years, Occ. Household,
 R/o. House No.2-1-64, Chaus Colony,
 Shahabazar, Aurangabad

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Director of
Education, Pune
2. Maharashtra Rajya Pariksha
Parishad, through its
Commissioner, Pune
3. Member of Secretary,
Kendriya Bharti Purva,
Navaran Sameti,
17- Ambed Marg, Pune
4. Municipal Corporation,
Bhivandi Nizampur
C/o Dagadi School Building,
Prabhavati-Bhivandi,
Dist. Thane
5. Zilla Parishad, Aurangabad
Through its Chief Officer,
Zilla Parishad, Aurangabad

..RESPONDENTS

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Advocate for Petitioner : Mr.S.S. Kazi

A.G.P. for respondent-State No.1 : Mr. M.M. Nerelkar

Advocate for respondent Nos.2 & 3 : Mr. A.R. Nikam

Advocate for respondent No.5 : Mr. Rahul Tambe.

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**CORAM :T.V. NALAWADE AND
SUNIL K. KOTWAL,JJ.**

DATE : 9th JANUARY, 2019.

ORAL ORDER :-

The petition is filed for giving direction to respondents to issue appointment letter in favour of petitioner, on the post of Shikshan Sevak in Aurangabad and for relief of quashing and setting-aside the communication dated 25.08.2014. Direction is also claimed against the respondents that they should consider the marks declared in her favour in respect of the centralized process of recruitment on 17.09.2012, and give posting to her on the basis of those marks as Shikshan Sevak in Urdu medium School at Aurangabad.

2. Both the sides are heard.

3. The petitioner has completed her S.S.C and Diploma in Education (D.Ed.). She had applied for the post of Shikshan Sevak and she had appeared for written examination in the year 2010. In the result-sheet, it was shown that she had secured 116 marks out of 200 and result was declared on 01.06.2010. After this result, she was asked to go before Shikshan Mandal of Bhivandi where she was to be posted. She appeared before said Shikshan Mandal on 10th June 2010. According to her no appointment was issued in her favour by Bhivandi office.

4. It is the case of petitioner that on 17.09.2012, it was informed to her after the decision of one proceeding by this Court that her marks were increased and they were 122 out of 200 marks. It is her

contention that on the basis of marks declared in the year 2012, the appointment orders were issued in favour of 45 candidates but no order was issued in favour of the petitioner though she had secured 122 marks. It is her contention that she gave application, representation to respondent on 21.07.2014, and it was informed to her in the year 2014, the candidates from the reserved category were only appointed and it was not possible to consider the petitioner as four years had passed after giving her appointment.

5. During the argument, learned counsel for the petitioner submitted that Bhivandi Shikshan Mandal had issued order in favour of the petitioner and posting was given to her in the region of Bhivandi Shikshan Mandal in the year 2010 itself, but she did not join the service/posting and so she cannot be given appointment after four years.

6. The petitioner has produced some record of correspondence made by Bhivandi Shikshan Mandal and it shows that dates were fixed for verification of the record of June, 2010. There is copy of representation made by the petitioner dated 21.07.2014, and it shows that the petitioner had knowledge that Bhivandi Shikshan Mandal was the region assigned to her and other candidates and 17 candidates were given posting in Aurangabad Zilla Parishad. The representation shows

that as per the Government Resolution of 2011, she was raising grievance. She has contended that she was entitled to more marks but proper marking was not done and due to that she was given posting in Bhivandi region and so her grievance needs to be redressed and she needs to be given posting in Aurangabad region. The communication made in response by the State Committee constituted in taking test for recruitment dated 25.08.2014, shows that as in the first stage itself, appointment was given by this committee to the petitioner in Bhivandi on 01.07.2010, it was not possible to give her other posting after four years. It was also made clear that as per the Government Resolution dated 06.08.2001, if the candidates from the reserve category were not available, then it was open to give posting from open category and accordingly the postings were given to the candidates from the open category as at some places the candidates from reserve category for Urdu medium were not available. The petitioner was from Urdu medium category, so it was informed that the post which was to be given to her was filled up by appointing other candidate as she had not joined the duty.

7. The contention of the petitioner that no appointment letter was issued in her favour, cannot be accepted as her representation and the record shows that the Bhivandi region was given to her. She had gone there for verification and she was asked to join at Bhivandi School of

Municipal Corporation.

8. The learned counsel for the respondent placed reliance on the rules made by the committee formed for the centralized process which were complied in broucher. Rule 10 shows that within 25 days of preparation of select list the candidates were to be asked to remain present at the place of appointment. If a candidate had not received appointment letter then he / she was to raise grievance before the local body to which the candidate was assigned and written complaint was to be given by the candidate, if the appointment letter was not received. In the present matter, the aforesaid circumstances show that there was communication with the petitioner and she was asked to remain present in Bhivandi Shikshan Mandal and she did appear before the Shikshan Mandal of Bhivandi for verification. Thus, she should have resumed the duty there, but she did not resume the duty as she wanted appointment in Aurangabad. It can be said that only in the year 2012 she felt that she could have got posting in Aurangabad as in that year marks were increased. In that case also she could have made representation or grievance as per rule 10. As she had not raised any grievance within 25 days from the date of appointment letter given to her, it was necessary for her to first join Bhivandi circle and afterward raise grievance, if her marks were increased and when she was feeling that she was entitled to betterment, other posting. First time in the year 2014, she raised the

grievance. In view of the procedure given in the aforesaid broucher, this Court holds that the petitioner lost opportunity to get the appointment and that happened only due to her approach.

9. Due to all these circumstances, this Court holds that no relief can be granted in favour of the petitioner and petition stands dismissed.

[SUNIL K. KOTWAL]
JUDGE

YSK/

[T.V. NALAWADE]
JUDGE