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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11208 OF 2017

Prashant Prataprao Koshti,
Age – 32 years, Occ – Service as
Assistant Teacher
R/o Yashwantnagar, Latur
Taluka and District - Latur

PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
School Education and Sports Department
Mantralaya, Mumbai – 32
2. The Education Officer (Secondary)
Zilla Parishad, Latur
Taluka and District – Latur
3. Renuka Education Society,
Renapur, Taluka – Renapur
District – Latur
Through its Secretary
4. Shriram Vidyalaya, Renapur
Taluka – Renapur, District – Latur
Through its Headmaster

RESPONDENTS

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Mr. Vikas G. Kodale h/f Mr. V. D. Gunale, Advocate for petitioner
Mr. S. S. Dande, AGP for respondent - State

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[CORAM : SUNIL P. DESHMUKH AND
S. M. GAVHANE, JJ.]

DATE : 24th SEPTEMBER, 2019

ORAL JUDGMENT (PER SUNIL P. DESHMUKH, J.) :

1. Rule. Rule made returnable forthwith and heard finally with

consent of learned advocates for the appearing parties.

2. Aggrieved by order dated 31st July, 2017 of respondent No. 2, the petitioner is before this court seeking writ of certiorari against said order with a mandamus to respondents to grant approval to petitioner's continuation of service as regular assistant teacher as per proposal dated 8th August, 2013 submitted by respondent No. 4 school run by respondent No. 3 society and to release salary accordingly from 24th July, 2013.

3. After hearing learned advocates for the parties, it transpires that petitioner had been educationally qualified for appointment as a teacher in mathematics and he belongs to special backward class – Koshti and his caste certificate has been validated by concerned scrutiny committee.

4. Pursuant to advertisement dated 3rd July, 2010, issued by respondents No. 3 and 4 for selection of assistant teacher, petitioner being eligible and qualified, had been selected by the duly constituted selection committee for the post of *Shikshan Sevak* and appointment order had been issued accordingly on 20th July, 2010. His appointment had been on a clear, vacant and permanent sanctioned post as per staffing pattern. His appointment had also been got verified by B.C. Cell as per roster.

5. On completion of three years' service as *Shikshan Sevak*, his services came to be regularized by respondents No. 3 and 4 as assistant teacher and accordingly proposal had been forwarded to education officer, secondary, Zilla Parishad, Latur. However, said proposal had been turned down under aforesaid impugned order dated 31st July, 2017 by respondent No. 2.

6. Perusal of the impugned order shows that approval to appointment of petitioner has been declined referring to Government Resolution dated 2nd May, 2012, finding it difficult to accede to the request until entire backlog of surplus teachers is wiped out.

7. Learned advocate Mr. Vikas G. Kodale holding for Mr. V. D. Gunale submits that factual situation involved in the present matter is no longer *res integra*. He submits that obviously petitioner's appointment is long before issuance of Government Resolution dated 2nd May, 2012, banning recruitments until removal of surplus teachers' backlog. He further submits that situation thereafter stands explained under subsequent Government Resolutions, whereunder ban has been relaxed in the cases of teachers of subjects Mathematics, Science and English as well as ban has been relaxed where backlog in

reservations is to be removed. He submits that it would be apt to consider decision in writ petition No. 8587 of 2016 and connected writ petitions given by division bench at principal seat dated 10th July, 2017, wherein it has been observed in paragraph No. 9 as under -

“ 9. *In the result the Writ Petitions are allowed and impugned orders are quashed and set aside. The Respondents – Education Officers are directed to examine independent cases and grant approval to each of the teachers who fail in the following three categories:-*

- (a) Where the recruitment process is already commenced prior to GR dated 2nd May, 2012;*
- (b) where the appointments made for filling up vacancies in English, Mathematics and Science;*
- (c) where the recruitment is made to fulfill the backlog of reserve categories candidates; ”*

8. It appears that the petitioner had been appointed by following prescribed procedure by duly constituted selection committee and his appointment being approved by respondent No. 2 as *Sikshan Sevak* for a period of three years and the recruitment process indeed appears to be undertaken before 2nd May, 2012. It is also not denied that his appointment as assistant teacher is for Mathematics and that he belongs to

special backward class.

9. In the circumstances, impugned order dated 31st July, 2017 passed by respondent No. 2 has been rendered unsustainable and the same is accordingly quashed and set aside, reviving proposal dated 8th August, 2013 submitted by respondent No. 4 seeking approval to petitioner's appointment as regular assistant teacher, in accordance with the observations in decision in writ petition No. 8587 of 2016 and connected matters and not to be declined on the ground of availability of surplus teachers and for the reasons on which the same had been declined under the impugned order.

10. Writ petition is accordingly disposed of. Rule is made absolute in aforesaid terms. It is expected that a prompt action in this respect would be taken without keeping the matter lingering on and if decision to grant approval to petitioner's appointment as regular assistant teacher is taken, his salary may be released in right earnest.

[S. M. GAVHANE]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE