

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

WRIT PETITION NO. 11662 OF 2018

Suresh Hariba Tigote

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Shrikrashna B. Solanke, Advocate for the Petitioner.

Shri P. K. Lakhotiya, A.G.P. for the Respondent No. 1.

Shri U. B. Bondar, Advocate for the Respondent No. 2.

Shri A. R. Gaikwad, Advocate for Respondent Nos. 3 and 4.

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

DATE : 20TH MARCH, 2019.

FINAL ORDER :

. We have heard the learned counsel for the petitioner and the learned counsel for respondents.

2. The proposal seeking approval to the appointment of the petitioner is rejected on the ground that there was ban on recruitment as there were surplus candidates to be absorbed.

3. It is contended that, the petitioner belongs to the scheduled caste category and is appointed to teach English subject. The learned counsel relies on the judgment dated 10th July, 2017 of

this Court at its Principal Seat at Bombay in Writ Petition No. 8587 of 2016 with connected writ petitions.

4. This Court at its Principal Seat at Bombay in Writ Petition No. 8587 of 2016 under order dated 10.07.2017 has observed thus.

8. We find that at the same time the State should take into consideration, that such situations arise on account of inaction of its own Education Officers. If Education Officers act promptly and ensure that the surplus teachers are absorbed in the schools wherever there is a vacancy, such a situation would not arise. However, as already observed hereinabove on account of inaction on the part of Education Officers, right which has become fundamental, in view of amendment to the constitution by which Article 21A brought in the Constitution, cannot be permitted to be frustrated. The schools are not expected to run without teachers for years together. The State would always be at liberty to take appropriate action against its officers, on account of who's inaction the State exchequer will be burdened.

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 fall 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 fulfil the backlog of reserve categories candidates;

5. Considering the fact that, the petitioner is appointed from the Scheduled Caste category and also for teaching English subject, impugned order is quashed and set aside. The Education Officer shall reconsider the proposal of the petitioner for grant of approval to his appointment on its own merits, expeditiously and preferably within a period of four (04) months from today and shall not reject the proposal on the ground on which the impugned order was passed.

6. The writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb / March 19