

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10670 OF 2018

RAM BALAJI NATWE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Panpatte V.S.
AGP for Respondents No. 1 & 2 : Mr. S. M.
Ganachari

Advocate for Respondents No. 3 & 4 :
Mr. S. P. Katneshwarkar

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CORAM: S. V. GANGAPURWALA &
A. M. DHAVALÉ, JJ.

DATE: 24th JANUARY, 2019

PER COURT :

1. The proposal seeking approval to the appointment of the petitioner as 'Shikshan Sevak' is rejected, aggrieved thereby the present petition.

2. Mr. Panpatte, learned counsel for the petitioner submits that as per the roster approved by the B.C. Cell one post for O.B.C. is vacant. The application was given by the institution on

07.04.2016 for filling in the vacant post from O.B.C. category. No response was received from respondent no. 2 - Education Officer (Secondary), Zilla Parishad, Latur. Thereafter the advertisement was issued on or about 19.06.2016. Pursuant to the advertisement the petitioner applied. He was selected and appointment order was issued to the petitioner on 01.07.2016. The learned counsel submits that the ban on recruitment does not apply for appointment of teacher to teach English subject. He further submits that the petitioner is appointed from reserved category.

3. Mr. Katneshwarkar, learned counsel appears for the institution and submits that the application was given to the Education officer seeking permission to fill in the post. No response was received and till date no surplus candidate has been sent to the institution for absorption.

4. The learned Assistant Government Pleader submits that the institution has not obtained permission before filling in the post. The work load is not available for English subject. As per roster the vacant posts are meant for S.C. and N.T. category.

5. We have considered the submissions canvassed by the learned counsel for respective parties.

6. The application appears to have been given by the institution on or about 07.04.2016. The same is not denied by the Education Officer.

7. The Education Officer did not respond to the application and thereafter advertisement is issued. The order impugned only states that the permission has not been sought and that the appointment is during the ban period. On these grounds only the application is rejected. It is further submitted by the institution that no surplus candidate was ever sent for absorption.

8. Considering the above, the impugned order cannot be sustained and the same is set aside. The Education Officer shall decide the said proposal afresh by considering roster, qualification and all relevant aspects but shall not reject it on the ground on which the impugned order is passed. The same shall be decided within a period of four (4) months from today.

9. Writ Petition accordingly stands disposed of.
No costs.

[A. M. DHAVALÉ, J.] [S. V. GANGAPURWALA, J.]

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