

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12544 OF 2018

SHIVKUMAR ANANDRAO PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Panpatte V.S.
AGP for Respondent Nos. 1 to 4: Mrs. G. L. Deshpande
Advocate for Respondent Nos.5&6: Mr. Maniyar Irfan D

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

DATE: 16th JANUARY, 2019

PER COURT :

1. We have heard Mr. Panpatte, learned Advocate for the petitioner, the learned A.G.P. for respondent nos. 1 to 4 and Mr. Maniyar, learned Advocate for respondent nos. 5 and 6.

2. The petitioner was appointed as 'Shikshan Sevak' from 11.10.2013. The Education Officer granted approval to the appointment of the petitioner as 'Shikshan Sevak' under order dated 26.12.2013. Upon completion of the probation

period of three years, it appears that the petitioner was confirmed in service. The Management submitted proposal for permanent approval as an 'Assistant Teacher'. The Education Officer under order dated 20.02.2017 granted approval to the petitioner as an 'Assistant Teacher' with continuity. The approval granted to the petitioner as 'Shikshan Sevak' has been cancelled under the impugned order by the Deputy Director of Education. It appears that while passing impugned order the Deputy Director of Education lost sight of the fact that the services of the petitioner as an 'Assistant Teacher' is also approved and no orders are passed with regard to the said approval. Only because the post of S.T. category was not filled in, the Deputy Director of Education has exercised its jurisdiction. The Deputy Director of Education in the impugned order does not suggest that the post was not vacant for Open category candidate. The learned counsel for the management has undertaken

to fill in the backlog of S.T. posts. The said undertaking is accepted.

3. It does not appear that the Deputy Director of Education came to the conclusion that the order of approval was fraudulently obtained.

4. The Deputy Director of Education also has not concluded that the post was not meant for Open category candidate. In absence of such finding, the impugned order ought not to have been passed.

5. In the light of above, the impugned order cancelling the approval is quashed and set aside. The respondents shall accord the benefit to the petitioner as an 'Assistant Teacher' and all consequential benefits thereupon.

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

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

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