

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

WRIT PETITION NO.1953 OF 2014

1. Shailesh s/o. Kishorilal Patel,
Age : 52 years, Occ. Business,
r/o. Flat No.12,
Radhanawal Apartment,
Rajabazar, Aurangabad – 431 001
and others ..Petitioners

Vs.

1. The State of Maharashtra,
Through the Secretary,
Education Department,
M.S., Mantralaya, Mumbai
and others ..Respondents

Mr. R.S.Deshmukh, Advocate for petitioners

Mr. S.S.Dande, AGP for respondent nos.1 to 3

Mr. A.D.Kasliwal, Advocate for respondent no.4

**CORAM : SUNIL P. DESHMUKH
AND
R.G. AVACHAT, JJ.
DATE : APRIL 09, 2019**

ORDER :-

Petition has been moved seeking writ of *certiorari* against
orders dated 17-03-2010 and 27-08-2010 appointing respondents no.7

to 14 as teachers, who were initially appointed as *Shikshan Sevaks* as per the prevalent recruitment rules.

2. In the first place, it will have to be noted that petitioners no.2 to 4 and 6 to 8 have withdrawn themselves from prosecuting petition. The petition is being prosecuted on behalf of petitioners no.1 and 5 only.

3. Admittedly, while respondents no.7 to 14 were initially appointed as *Shikshan Sevaks*, due selection procedure was followed. However, it appears that three years down, around April, 2014, there had been change in the school committee and it is claimed to have been headed by present petitioner no.1, who purported to object to appointments of respondents no.7 to 14, claiming that their performance was not proper and that while they were appointed, there were certain deficiencies and contradictions. Petitioners' allegations with regard to respondents no. 7 to 14 are that age of some of them had been on wrong side and a few of them are related to some of the members of the management. Objections to aforesaid effect have been purportedly taken even before respondent no.3, however, had not been addressed to, and in August, 2013, approval was granted to their appointments. Since

representation and communication of the petitioners were not being responded to, petitioners are before this Court.

4. It would be worthwhile to consider that the objections of petitioners are against appointments of respondents no. 7 to 14. It is being claimed that erstwhile petitioners were members of the Selection Committee. Majority of the committee members appeared to have resiled from the situation, withdrawing themselves from the petition. It, thus, appears that they have, in a way, suggested that they do not object to the appointments of respondents no. 7 to 14. It further appears that grievances of petitioners, to a large extent, have been considered, as would emerge from affidavit filed by respondent no.5.

5. It has been referred to in affidavit of respondent no. 5 that appointments of respondents no. 7 to 14 as *Shikshan Sevaks* have been made by following due selection procedure and they were possessing requisite qualifications. On completion of probation period of three years as *Shikshan Sevaks*, they had been confirmed as teachers in accordance with sub-section (2A) of section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and approval is also granted to their

appointments on 27-08-2013. The affidavit refers to that appointments of respondents no. 7 to 14 are as per the resolution passed by School Committee, after publishing advertisement in newspaper and in accordance with recruitment rules. The selection committee had recommended appointments of respondents no. 7 to 14 and issued appointment orders. It is further being referred to that after examining the proposal for their appointments and particularly, the procedure adopted by the Management while making appointments, number of sanctioned posts and qualifications, etc., approval to the appointments of respondents no. 7 to 14 was granted. It is referred to in the affidavit that respondent – School is a minority institution and the appointments of respondents no. 7 to 14 are, therefore, not subject to any reservation policy. While petitioners had purportedly objected to appointments, after examining necessary aspects, approvals have been granted. The head of school had reported that respondents no. 7 to 14 had satisfactorily completed probation period of three years. Upon objection of petitioners, relevant record had been verified and it did not appear that there was substance in the complaint of petitioners.

6. Having regard to the aforesaid aspects and upon considering the affidavit filed on behalf of respondent no.5, we are disinclined to entertain the Writ Petition. Writ Petition is dismissed.

[R.G. AVACHAT, J.]

[SUNIL P. DESHMUKH, J.]

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