

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.529 OF 2019

MAROTRAO KESHAR JADHAV

...PETITIONER

VERSUS

REGIONAL DEPUTY COMMISISONER
SOCIAL WELFARE DEPT LATUR
AND OTHERS

...RESPONDENTS

Mr. A.S. Deshpande, Advocate for Petitioner
Mr. S.B. Yawalkar, AGP for Respondents-State

**CORAM : S.V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 19th SEPTEMBER, 2019

ORAL ORDER:

1. The proposal seeking approval to the appointment of the petitioner is negatived on the ground that the petitioner possesses B.Ed. qualification and not D.Ed. qualification.

2. It is submitted that the school where the petitioner is appointed runs 1st to 8th Std. Ashram School. According to the learned Counsel, there is no other Assistant Teachers except the petitioner possessing B.Ed. qualification. 25 % posts are admissible for B.Ed. qualification. Reference is made to the Government Resolution dated 11th November, 2011. The learned Counsel for the

management submits that apart from the petitioner, there is no other candidate possessing B.Ed. qualification in the Ashram School.

3. The learned Assistant Government Pleader submits that the post of trained graduate teacher is not an independent post, but it is promotional post and the petitioner is directly appointed as a trained graduate teacher by the institution. The trained graduate teacher is granted approval, who is having D.Ed. qualification and is senior most teacher. The qualification of the D.Ed. is necessary for primary level.

4. We have considered the submissions. The management accepts that apart from the petitioner, no other candidate is possessing B.Ed. qualification. The Ashram School is from 1st Std. to 8th Std. The Government Resolution dated 11th November, 2011 relied by the petitioner suggests that in the primary school, 25% posts for B.Ed. qualified teacher is permissible and said appointment shall be considered as that of trained teacher and would be entitled for the graduate trained teachers pay scale. Reference can also have to the judgment of the Apex Court in case of the ***State of Maharashtra Vs. Tukaram Tryambak Choudhari reported in 2007 AIR SCW 1321.***

5. In light of the above, the impugned order is quashed and set aside. The respondent No.1 shall affirm about the teachers

possessing B.Ed. qualification not being more than 25 %, and if the petitioner is the teacher possessing B.Ed. qualification and is within the 25 % of the total posts of Assistant Teachers, shall be granted approval as trained graduate teacher. The same shall be done within a period of four months.

6. Naturally for the 1st three years, from the date of appointment the petitioner would be paid honorarium as a Shikshan Sevak.

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

[ANIL S.KILOR]
JUDGE

[S.V.GANGAPURWALA]
JUDGE

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