

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 456 of 2018

Shri Pathak Omkar Arun & anr. ... Petitioners

v/s.

The State of Maharashtra & anr. ... Respondents

Mr. M.V. Bandiwadekar i/b. A.N. Bandiwadekar for the petitioners.
Mr. S.B.Kalel, AGP for respondents 1 & 2.

**CORAM : B.R. GAVAI &
DAMA SESHADRI NAIDU, JJ**

3rd APRIL 2019.

P.C.

The petitioner has approached this Court being aggrieved by the rejection of approval of his appointment as full time teacher.

2. Undisputedly, the petitioner was initially appointed as a part time teacher with effect from 1st July 2011. The approval to the said appointment is also granted by the Education Officer on 23rd February 2012.

3. With the passage of time, in the year 2017, the post of a full time

teacher was available in the said school. As such the petitioner no.2 appointed the petitioner to the said post on full time basis. The proposal was submitted for approval. The same was rejected on the ground that appointment of petitioner is after 2nd May 2012 and as such not permissible in law.

4. The issue is no more *res integra*. The Division Bench of this Court in the case of *Purushottam H. Shireskar & ors. V/s. The State of Maharashtra & anr.*¹ decided on February 28, 2017 has observed thus:

“8. Having gone through the aforesaid orders and the Government Resolutions referred above, we find that the Petitioner No.2 had made proposal for approval of Petitioner No.1 as full time Assistant Teacher as he was already in service since 2001. The Government Resolution dated 2nd May 2012 on which the Respondents have placed reliance is about ban on the fresh appointments. By no stretch of imagination, it can be said that the Petitioner No.2 wanted approval of the Petitioner No.1 for being appointed as fresh Assistant Teacher. Undoubtely the Petitioner No.1 is already in service and the proposal was in regard to his upgradation as full time Assistant Teacher in view of the Resolution dated 31st

¹Writ Petition No.4120/2016

January 2001 and 10th June 2005. In these circumstances, in view of the undisputed fact that the Petitioner being qualified for holding post of full time Assistant Teacher, the order of Respondent No.2 – Education Officer cannot be sustained and the same is, therefore, quashed.”

5. We find that petitioner's case is identical one. As such we are inclined to **allow** the petition. The impugned order is quashed and set aside. The Petitioner is directed to be granted approval as a Shikshan Sevak on full time basis, with effect from 15th July 2017, on satisfactory completion of period of three years. Since the petitioner had already completed six years part time as Shikshan Sevak, the said period is equivalent to three years full time Shikshan Sevak. As such the respondents shall grant approval to the up-gradation of petitioner as full time teacher from the date on which the petitioner has completed six years as part time Shikshan Sevak. The arrears shall be paid to the petitioner within a period of three months from today.

(DAMA SESHADRI NAIDU, J)

(B.R.GAVAI, J)

L.S. Panjwani, P.S.