

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

WRIT PETITION NO. 2198 OF 2018

Poonam Raghunath Jadhav

.. Petitioner

Vs.

The State of Maharashtra
& Ors.

.. Respondents

Mr.S.S. Pakale a/w. Mr. P.T. Waghmare I/b Mr.S.M. Katkar for petitioner.

Mr.A.I. Patel, Addl. G.P. a/w. Dr.Mrs. K.R. Kulkarni, AGP and Mr. Y.S. Khochare, AGP for respondent Nos.1 and 2 AGP for State.

Mr.Uday P. Warunjikar for respondent No.3.

Mr.S.R. Waghmare for respondent Nos.4 and 5.

**CORAM : R. M. BORDE &
N.J. JAMADAR, JJ.**

DATE : 6TH AUGUST 2019

P.C.

1 The petitioner seeks issuance of directions to the respondent Nos.2 and 3 to accord approval to the appointment of the petitioner as 'Assistant Teacher' on completion of three years' tenure as 'Shikshan Sevak'. The petitioner is also praying for issuance of a direction to the respondent No.3 to release the salary, admissible to the post of Shikshan Sevak from 22-08-2012 upto 22-08-2015 and to release the salary, as admissible to the post of Assistant Teacher with effect from 22-08-2015 onwards.

2 There is no controversy as regards appointment of the petitioner as Shikshan Sevak since 22-08-2012. The petitioner has also tendered on record the order of approval dated 13th May 2014 accorded by the concerned Education Officer approving services of the petitioner as Shikshan Sevak. The petitioner has completed a tenure of three years as Shikshan Sevak and, as such, under the Scheme formulated by the State Government, is entitled to be confirmed as Assistant Teacher in the school on regular basis.

3 In this context, relying upon the judgment of the Full Bench in the matter of *Ram Avadh Mahel Pal Vs. Shivdutta Educational Trust*¹, the petitioner contends that she has been appointed as Shikshan Sevak and shall deemed to be on probation for a period of three years and in view of the provisions of sub-sections (3) and (4) of the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act, 1977, she shall, on completion of probation period of three years, be deemed to have been confirmed as Assistant Teacher.

4 The issue referred to the Full Bench as to *whether the Shikshan Sevak on completion of three years or 30 months service appointed on regular basis as an Assistant Teacher in a school in terms of Clause 8 of the Government*

1 2007(6) BCR 23

Resolution dated 13th October, 2000 is required to be appointed as a confirmed teacher or a teacher on probation? The said issue has been answered by the Full Bench as under :-

“6 The reference before the Full Bench will now stand covered by the amendments made by Maharashtra Act XIV of 2007. As a result of the amendment, it has been provided that every person appointed as Shikshan Sevak shall be on probation for a period of three years. Moreover, subject to the provisions of Sub-sections (3) and (4) of Section 5 a Shikshan Sevak shall on completion of the probation period of three years be deemed to have been appointed and confirmed as a teacher. Incidentally, it may be necessary to note that the gazette notification dated 15th February, 2007 which is referred to in the definition of the expression 'Shikshan Sevak' in Clause (24A) of Sub-section (2) as amended incorporates the Government Resolution dated 13th October, 2000.”

5 In view of the mandate issued in the judgment delivered by the Full Bench referred to above, the petitioner, on completion of three years as Shikshan Sevak, shall deemed to have been appointed and confirmed as Assistant Teacher and shall be entitled to claim benefits of salary, as admissible, for the period during which the petitioner has not been paid.

6 In view of above, the writ petition stands disposed of.

[N.J. JAMADAR, J.]

[R. M. BORDE, J.]