

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

WRIT PETITION NO. 5028 OF 2018

Jeevan Kalyan Education Society through the ...Petitioners
Secretary & ors.

Versus

The State of Maharashtra through the ...Respondents
Secretary, School Education & Sports
Department & ors.

Mr.Prashant Bhavake for the petitioner.
Mr.S.B. Kalel, AGP for the State-respondent nos.1, 2 & 4.
Mr.Sagar Mane for respondent no.5.

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

DATE : 26th MARCH 2019.

ORAL JUDGMENT : (Per B.R. Gavai, J.)

1. Rule. Rule is made returnable forthwith. Heard by consent of parties.

2. By way of the above Petition, Petitioner who is a teacher has approached this Court being aggrieved by refusal by the Respondent – Education Officer to grant approval to the appointment of the Petitioner. The Petitioner has not been granted approval in view of

Government Resolution dated 02/05/2012, which banned the recruitment of teachers. As such, appointments made by the management are said to be illegal.

3. Mr. S.B. Kalel, learned AGP appearing on behalf of Respondent Nos. 1 to 5, has vehemently opposed the Petition.

4. The issue is no more *res integra*. The Division Bench of this Court, while deciding Writ Petition No.8587 of 2016 with connected Writ Petitions vide its judgment dated 10th July, 2017, has observed in para 7 as under:

“7. In that view of the matter, we find that in view of subsequent GRs and in view of the view taken by Division Bench of this Court, the ban would not be applicable to three categories, one where the recruitment process is already commenced prior to GR dated 2nd May, 2012, second, in so far as the appointment made for the subjects of English, Maths and Science are concerned and third, where the recruitment is made to fulfill the backlog of reserved category candidates.”

5. Indisputably, Petitioner who belongs to OBC Category is appointed as Shikshan Sevak with effect from 23/07/2012 and as such, she is squarely covered by the judgment of Division Bench of this Court, cited *supra*.

6. In that view of the matter, the Petition is allowed. The impugned order dated 22/09/2017 is quashed and set aside. Respondents are directed to grant approval to the appointment of the Petitioner from the date of her appointment i.e. 23/07/2012 as a Shikshan Sevak for three years and to pay the Petitioner her regular salary from the month of April 2019. All arrears of salary from the date of appointment of the Petitioner till March 2019 shall be cleared within a period of three months from today.

7. Rule is made absolute accordingly.

[DAMA SESHADRI NAIDU, J.]

[B.R. GAVAI, J.]