

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

916 WRIT PETITION NO.3322 OF 2018

**SUNIL ATMARAM KALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. Vivek U. Jadhav, Advocate for the petitioner
Mr. S. J. Salgare, AGP for the respondent/State
Mr. A. M. Hajare, Advocate for respondent Nos. 3 and 4

**CORAM : Z. A. HAQ &
S. M. GAVHANE, JJ.**

DATE : 25-02-2020

P. C.

. Heard.

2. Petitioner claims that he was appointed as Shikshan Sevak after interviews conducted on 11-03-2012, in the school administered by respondent No. 3-Sanstha. Petitioner has approached this court to assail the decision of respondent No. 2- Education Officer by which the proposal submitted by respondent No. 4 Headmaster seeking approval to the appointment of the petitioner is rejected. Respondent No. 3-Sanstha is supporting the petitioner.

3. Respondent No. 2- Education Officer has filed affidavit/ reply submitting that the appointment of the petitioner was made without following the prescribed procedure as laid down under

Section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. Respondent No. 2-Education Officer has further stated that in 2013-2014, two teachers who were working in the school administered by the respondent No. 3-Sanstha were declared surplus and in 2012, when the advertisement for the post on which the petitioner claims to have been appointed was issued, there was no vacancy in the school administered by the respondent No. 3-Sanstha. By order dated 11-04-2019, this Court directed the Management to produce the copy of staffing pattern for 2012-2013, and sanctioned roster. Today, at the time of hearing, learned advocate for the respondent Nos. 3 and 4 has produced the copy of staffing pattern and sanctioned roster without any supporting affidavit. Respondent Nos. 3 and 4 and the petitioner have not been able to point out that there was any vacancy in February, 2012 in the school administered by respondent No. 3-Sanstha. Respondent Nos. 3 and 4 have not been able to justify their action of issuing the advertisement inviting applications from the eligible candidates for being appointed as Shikshan Sevak in the school administered by respondent No. 3-Sanstha. Respondent Nos. 3 and 4 claim that permission was sought from the Education Officer by the communication dated 23-02-2012, to issue advertisement. The advertisement was issued on 29-02-2012. There is no explanation by respondent Nos. 3 and 4 for the undue haste in issuing advertisement without waiting for reply from respondent No. 2-Education Officer.

4. The facts on record show that the petitioner was

appointed without following prescribed procedure. Apparently, the petitioner and respondent No. 3-Sanstha are in collusion and a bold attempt is made to seek order from this Court to regularise the illegality committed by respondent No. 3-Sanstha.

5. We see no reason to show any indulgence in the matter. The writ petition is dismissed. In the circumstances, the respondent No. 3 shall pay cost of Rs. 1,00,000/- (Rupees One Lakh) to the respondent No. 1-State. The amount of costs shall be deposited with the office of Government Pleader till 30-03-2020. On deposit of amount, it be transmitted to the Maharashtra Victim Compensation Scheme, 2014.

[S. M. GAVHANE, J.]

[Z. A. HAQ, J.]