

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

WRIT PETITION NO.5858 OF 2018

Paresh s/o Banshilal Suryawanshi
Age: 27 years, Occ: Service,
R/o. Fhagane, Tal. & Dist. Pune

PETITIONER

VERSUS

1. The State of Maharashtra
Through, its Secretary,
School Education & Sport
Department, Mantralaya,
Mumbai-32
2. Dy. Director of Education,
Nashik Division, Nashik
3. Education Officer (Primary)
Zillha Parishad, Jalgaon
4. Head Master of R.H. Jaju Primary
School, Erandol, Dist. Jalgaon
5. President of Erandol Shikshan
Prasarak Mandal Erandol,
Dist. Jalgaon
6. Secretary of Erandol Shikshan
Prasarak Mandal Erandol,
Dist. Jalgaon

RESPONDENTS

Mr V.S. Panpatte, Advocate h/f Mr Paresh B. Patil,
Advocate for the petitioner;

Mr S.G. Sangle, A.G.P. for respondent/State;
Mr M.K. Goyanka, Advocate for respondent No.3;
Mr M.G. Patil, Advocate for respondent No.4;
Mr R.R. Mantri, Advocate h/f Mr R.R. Sancheti, Advocate
for respondent Nos. 5 & 6

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.**

DATED : 15th JANUARY, 2020

ORAL ORDER:

Heard Mr. Papatte, learned Counsel with Mr. Paresh Patil, learned Counsel for the petitioner.

2. It may not be necessary for this Court to refer to the facts in detail. Suffice it to say that initially on a grievance that the proposal is submitted to the Education Officer for grant of approval to the petitioner is pending for considerable period, the petitioner had approached this Court seeking directions to the Education Officer to decide the proposal. During pendency of the petition, the proposal is decided by the Education Officer. By amendment to the petition, the order of the Education Officer rejecting the proposal dated 2nd July,

2018 is challenged.

3. Mr. Panpatte, learned Counsel for the petitioner invited our attention to the necessary documents placed on record in the form of academic qualifications passed by the petitioner and advertisement issued, staffing pattern being approved, appointment order dated 9th November, 2012 passed in favour of the petitioner appointing him as *Shikshan Sevak* for a period of three years w.e.f. 12th November, 2012 to 11th November, 2015, continuity of service of the petitioner for considerable period having availability of posts in the school.

4. The petitioner had approached the Deputy Director of Education for raising grievance of pendency of proposal by way of an appeal. The Deputy Director of Education, by communication dated 16th June, 2017 recorded a positive finding in favour of the petitioner and it is stated that there shall not be any rider for grant of approval and may take appropriate decision at

his level expeditiously.

5. The Education Officer, in the order dated 23rd May, 2018 while rejecting the proposal, a reference to the communication forwarded to the office of Deputy Director of Education dated 12th February, 2018 is made. The said document is placed on record at Exhibit-0. Perusal of this communication shows that there is some reservation recorded insofar as earlier letter issued to the office of the Deputy Director of Education dated 6th February, 2013.

6. In response to the notice issued by this Court vide order dated 18th June, 2018, affidavit in reply on behalf of respondent Nos. 1 and 2 through Mr. Manohar Rambhau Waghmare, presently serving as I/c. Science Consultant in the office of the Deputy Director of Education, Nashik Division, Nashik. In paragraph-4 of the affidavit in reply, the deponent admits academic qualifications and availability of the posts and advertisement being issued and selection of the

petitioner by conducting interviews as well as filing of the appeal before the Deputy Director of Education. In paragraph-7 of the affidavit in reply, a specific statement is made that the appointment of the petitioner is for fulfilling the backlog of O.B.C. category, as he belongs to O.B.C. category and then reference is made to the judgment and order of this Court delivered at Principal Seat.

7. Paragraph-9 of the affidavit in reply reads thus:

“9. I say that, the appointment of the Petitioner is for filling the backlog of OBC category and his appointment is made by management after following prescribed procedure of recruitment. Hence in light of above the Education Officer will have taken decision upon proposal forwarded by the Institution seeking approval to the appointment of the Petitioner afresh and may not reject it only on the ground that, prior permission is not obtained. The Respondent Education Officer (Primary), Zilla Parishad, Jalgaon may consider staffing pattern as on the date of the Petitioner

was appointed.”

8. We deem it appropriate to quash and set aside the order dated 2nd July, 2018 passed by the Education Officer and further direct the Education Officer to take a decision afresh on the proposal of the petitioner considering the statements referred to above as reflected in paragraphs-7 and 9 of the affidavit in reply filed on behalf of the Deputy Director of Education. It is not in dispute that the petitioner is waiting since long for a decision on the proposal and there was round of litigation, the Education Officer to take a decision as early as possible and not later than four weeks from the receipt of the order of this Court.

9. With these directions, the petition is disposed of.

[ANIL S. KILOR, J.]

[PRASANNA B. VARALE, J.]