

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

**WRIT PETITION NO.13637 OF 2018
WITH
CIVIL APPLICATION NO.7301 OF 2019
IN
WRIT PETITION NO.13637 OF 2018**

Vinod S/o Eknath Kamble
Age 36 Years Occu.:Assistant Teacher
In Bhagatsingh Vidyalaya Astha
Tq.Chakur Dist.Latur
R/o at Astha, Tq.Chakur
Dist.Latur

..PETITIONER

VERSUS

1. The State of Maharashtra
Through it's Secretary,
School and Education Department
Mantralaya, Mumbai-400 032.
2. The Education Officer,
(Secondary)
Zilla Parishad,
Tq. and Dist: Latur
3. Bhagatsingh Teachers Shikshan Sanstha
At Astha Tq.Chakur,
Dist.Latur
Through it's Secretary
4. The Head Master
Bhagatsingh Vidyalaya
At Astha
Tq.Chakur, Dist.Latur

..RESPONDENTS

Mr S.R. Kolhare, Advocate for the petitioner;
Mr S.P. Sonpawale, A.G.P. for respondent/State;
Mr R.K. Ashtekar, Advocate for respondent Nos.3 and 4;

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

DATED : 15th JANUARY, 2020

ORAL ORDER:

Heard Mr. Kolhare, learned Counsel for the petitioner.

2. It is submitted by the learned Counsel for the petitioner that the petitioner was selected for the post of *Shikshan Sevak* vide appointment order dated 14th June, 2014 w.e.f. 16th June, 2014. It is submitted that the petitioner, in pursuance to the appointment order joined to the post of *Shikshan Sevak* on 16th June, 2014 and has completed his probation period on 15th June, 2017.

3. It is further submitted that the Headmaster of Bhagatsingh Vidyalaya, Astha, Taluka Chakur, District Latur forwarded a proposal to the Education Officer

(Secondary), Zilla Parishad, Latur for grant of approval to the appointment of petitioner on 18th July, 2014.

4. It is the submission of learned Counsel for the petitioner that as no order was passed by the Education Officer on the proposal, the petitioner submitted a representation on 17th July, 2018 to the Education Officer and it was informed by the Education Officer that the proposal of petitioner was turned down on the ground of Government Resolution dated 2nd May, 2012 and for the reason of surplus teachers.

5. On the backdrop of these facts, a principal prayer is made in the petition, i.e. prayer clause(B) and same reads thus:

“(B). By writ of Mandamus or any other appropriate writ or direction like nature or order, the respondent No.2 i.e. the Education Officer (Sec) Zilla Parishad Latur, may kindly be directed to grant the Approval to the post of

occupied by petitioner as Shikshan Sevak/Assistant Teacher w.e.f. 16th June 2014, as expeditious as possible by giving all consequential benefits including the salary of petitioner w.e.f. 16th June 2014, as per Rule 7 of M.E.P.S. (C OF S) Rules 1981."

6. In response to the notice issued on 10th December, 2018, on behalf of respondent No.2, Mr. Audumbar Sampatrao Ukirde, the Education Officer (Secondary), Zilla Parishad, Latur has filed affidavit-in-reply in this Court. In paragraph No. 4 of the affidavit-in-reply, it is stated that the petitioner was appointed on the post of *Shikshan Sevak* on 16th June, 2014 by the management under scheduled caste category on D.Ed. scale. Thereafter, the management submitted proposal for grant of approval to the office of this deponent. Then it is stated that however, the office of this deponent has refused to grant approval to the post of petitioner, as there was no vacant post available for

the S.C. Category.

(Emphasis Supplied)

7. The affidavit-in-reply concludes with the statement that it is pertinent to note that the petitioner has not passed the TET examination, therefore, on this ground also approval could not be granted to the post of petitioner.

8. On considerations of the factual matrix above referred emerged from the submissions of the learned Counsel for the petitioner and learned A.G.P., on the backdrop of the affidavit-in-reply, we were at pains to see that how the parties casually approached this Court. The petitioner, who has approached this Court on 3rd September, 2018 by filing the petition with a prayer of seeking directions to the Education Officer to grant approval, makes a statement in the petition that a representation was submitted to the Education Officer on 17th July, 2018. Except this statement, there was no word to explain as to what prevented the petitioner to

approach this Court after four years of submission of the proposal to the Education Officer.

9. Now, the statement which is made by submission of representation to the Education Officer in paragraph No.9 is without any supportive documents being placed on record. On a query put to the learned Counsel for the petitioner, he submitted that on the very date i.e on 17th July, 2018, the headmaster has submitted a communication to the Education Officer requesting to take a decision on grant of the proposal. So, the petitioner conveniently without placing any copy of the so called representation is shifting burden on the headmaster. The Education Officer (Secondary), Zilla Parishad, Latur is also carrying the same casual approach.

10. In response to the notice, affidavit-in-reply is filed by the Education Officer and it is stated in the affidavit-in-reply that the office of this deponent has refused to grant approval to the post of petitioner, as there was no vacant post available for the Scheduled

Caste category. When the proposal was submitted to the Education Officer in the year 2014, nothing could have prevented the Education Officer to inform his decision on the approval assigning reasons within a reasonable period. The Education Officer, thus, permitted to keep the proposal pending without any decision for four years and now, by way of affidavit-in-reply, the Education Officer is assigning reasons for not considering the claim of the petitioner and also adding another reason in the affidavit in reply that the petitioner has not passed TET examination. If these were the reasons, the Education Officer (Secondary) could have passed necessary orders on the proposal, so that the petitioner if aggrieved could have taken up the steps early in time.

11. Thus, what emerges is of causal approach of the parties and the petition being filed in this Court with this causal approach only leading in piling of the petitions and increase in the pendency of matters before the Court. We only hope and trust that the parties and

responsible officers of the State would at least take some steps timely so that this Court is not faced with unmeritorious petitions and spare time of this Court to deal with such petitions. The Education Officer has filed affidavit in reply in this Court. As such, we direct the Education Officer at least now to pass the order on the proposal and forward the order to the institute within two weeks from today.

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

13. In view of disposal of the petition, no order is required to be passed on the civil application and same is disposed of accordingly.

[ANIL S. KILOR, J.]

[PRASANNA B. VARALE, J.]