

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12970 OF 2019

Santosh Shankarrao Nikam

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr A.V. Patil, Advocate for Petitioner

Mr S.P. Tiwari, AGP for Respondents-State

**CORAM : S.V. GANGAPURWALA
AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 30th JANUARY, 2020

PER COURT :

1. The proposal seeking approval to the appointment of the petitioner as Shikshan Sevak is rejected. It is submitted that subsequently after completion of three years of service, the proposal was also sent for approval as Assistant Teacher.

2. We have heard Mr Patil, learned Counsel for the petitioner and the learned Assistant Government Pleader.

3. The rejection of the proposal is basically on the ground that permission to fill-in the post was not sought. There is a ban on recruitment and surplus candidate exists.

4. The petitioner has filed along with the petition, the application dated 19.11.2012 given by the institution to the Assistant Commissioner, Social Welfare, seeking permission to fill-in the post.

The said application is not denied in the affidavit. The impugned order also refers to the said application.

5. The advertisement is issued after one month of the application given.

6. There is nothing on record to even remotely suggests that any surplus candidate was sent to the respondent-institution for absorption. The institution had applied to the Assistant Commissioner, Social Welfare, seeking permission to fill-in the post. The Assistant Commissioner did not take cognizance of the said application. After one month, the advertisement was issued, and thereafter, the petitioner is appointed. The respondents also do not suggest that any surplus candidate was sent to the institution for absorption and that the institution did not absorb him.

7. In light of the above, the impugned order is quashed and set aside.

8. The authority shall consider the proposal seeking approval to the appointment of the petitioner afresh on its own merits, preferably within a period of four months. It shall not reject the proposal on the ground on which the impugned order was passed.

9. The writ petition is accordingly disposed of. No costs.

[SHRIKANT D. KULKARNI, J.] [S.V. GANGAPURWALA, J.]