

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

WRIT PETITION NO. 1337 OF 2019

Smt. Rukmin Bhagwan Sawargave

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. D. S. Mali, Advocate for the Petitioner.

Mrs. M. A. Deshapande, Addl. G. P. for Respondent Nos. 1 and 2.

Mr. G. A. Gadhe, Advocate for Respondent No. 3.

**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATED : 08th September, 2021.

PER COURT:-

. The petitioner assails the order dated 20.12.2018 rejecting the proposal seeking approval to the appointment of the petitioner as an Assistant Teacher. The appointment of the petitioner as Shikshan Sevak is approved.

2. Mr. Mali, learned counsel for the petitioner submits that there are seven posts available with the respondent No. 4, which are meant for graduate teachers. The petitioner is a graduate teacher. Three posts were meant for under graduates. The post for graduate teacher is never reduced. No surplus candidate exists. As far as graduate teachers post is concerned, the backlog of ST category from graduate teachers category

also does not exist.

3. The learned A.G.P. submits that the Education Officer has considered all the relevant aspects of the matter and has rightly passed the order. The petitioner is at Sr. No. 11 and only 10 posts are admissible. The seniority list is also placed on record.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. The distinction will have to be drawn between graduate and under graduate teachers. It is submitted that the school runs 5th to 10th standard. Considering the same, the posts for graduate and under graduate teachers are earmarked. The petitioner will have to be considered from graduate teachers category. The staffing pattern shown for the year 2014-15 demonstrates that there are seven posts of graduate teachers sanctioned. The petitioner would be seventh. The said aspect needs to be considered. The roster is also required to be considered as to whether the backlog of ST category is meant for a particular under graduate or a graduate teacher or the same is to be considered composite.

6. It is stated that before the petitioner completed his probation one post is reduced. However, the order does not clarify, whether the post

of graduate or under graduate is reduced. The said aspect needs to be considered by the Education Officer.

7. In the light of the above, the impugned order is quashed and set aside. The Education officer shall reconsider the proposal seeking approval to the appointment of the petitioner, on its own merits and shall take decision in the light of the observations made above, expeditiously and preferably within a period of four (04) months from today.

8. Writ petition accordingly is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.