

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5287 OF 2018

Vishakha Bhimrao Dudhmal .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

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Mr. M. S. Kulkarni, Advocate h/f. Mr. B. N. Gadegaonkar, Advocate
for petitioner

Mr. S. N. Kendre, A.G.P. for respondents no. 1 and 2

Mr. R. P. Adgaonkar, Advocate h/f. Mr. M. R. Sonawane, Advocate
for respondents no. 3 and 4

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**CORAM : SUNIL P. DESHMUKH AND
ABHAY AHUJA, JJ.**

DATE : 19th JANUARY, 2021

PER COURT :-

Learned counsel for petitioner submits that petitioner had been appointed by following due procedure as assistant teacher in 2014. However, proposal for approval to her appointment was not being decided, and, as such, she had preferred writ petition no. 4284 of 2017, which had been disposed of by this court under order dated 03-04-2017, directing respondent no. 2 to decide on the proposal. Said proposal for approval of petitioner's appointment has been rejected under order dated 11-12-2017 (Exhibit - F, page no. 19 to the petition), considering that there had been no permission to issue advertisement and the proposals received after Government resolution dated 20th June, 2014 have been decided to

be rejected by district level committee on 20th June, 2016. As such, proposal for approval is declined.

2. While order aforesaid is challenged under the writ petition, affidavit-in-reply refers to that after impugned order dated 11-12-2017, a government resolution dated 24-08-2018 has been issued directing concerned authorities to follow the procedure thereunder while granting approval to the appointment of employees in the private institutions. Affidavit-in-reply and order dated 06-05-2019 annexed along with the same, refers to that, petitioner has not passed Teacher's Eligibility Test (TET). It has further been referred to that after government resolution dated 24-08-2018, the concerned schools and employees' proposals were reconsidered for approval and after granting hearing, the proposal has been rejected under order dated 06-05-2019.

3. It is stated in the reply that the proposal has been reconsidered and order dated 06-05-2019 has been passed in pursuance to government resolution dated 24-08-2018, and therefore, impugned order 11-12-2017 does not subsist. Perusal of order under communication dated 06-05-2019 shows that approval to petitioner's appointment has been refused to be accorded, though, she has been appointed as a scheduled tribe candidate, however, she has not passed TET, which is necessary criterion pursuant to the resolution.

4. Learned counsel for petitioner submits that, as on the date, petitioner has cleared TET and submits that the impediments as were pointed out under two communications, no longer subsist.

5. Having regard to aforesaid, it appears to be expedient that proposal for approval of petitioner's appointment, as assistant teacher be reconsidered and decided, as early as possible including, if required, after hearing the petitioner.

6. In view of the same, impugned communications issued by respondent no. 2 dated 11-12-2017 and 09-02-2018 are set aside.

7. Proposal for approval to appointment of petitioner is restored for reconsideration taking into account relevant aspects.

8. Writ petition, accordingly, is disposed of.

9. It is expected that decision would be taken by respondent no. 2, as early as possible preferably within a period of eight weeks from the date of receipt of writ of this order.

(ABHAY AHUJA)
JUDGE

(SUNIL P. DESHMUKH)
JUDGE