

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**CIVIL APPLICATION NO.5788 OF 2021
IN WP/3072/2012 WITH WP/3072/2012**

**SANJAY PITER SHELKE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Ms.S.A.Kale h/f Mr. A.B.Kale, Advocate for the applicant.
Mr.H.S.Adwant h/f Mr.S.V.Adwant, Advocate for respondent Nos. 2 and 3.
Mr.S.G.Sangle, AGP for State.
Mr.Bhargav Kulkarni h/f. Mr.Sharad Natu, Advocate for respondent No.5.

**(CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, JJ)**

DATE : AUGUST 6, 2021

PER COURT :

1. Considering the order that we are passing on the gracious consent of the learned Advocate for respondent Nos. 2 and 3/Management and the learned Advocate representing the applicant, we are recording certain factors emerging from this case as under :-

[a] The applicant has acquired the decree of Bachelor of Arts with Economics as a specialization and Geography and Psychology as general subjects.

[b] He has also acquired the qualification of B.P.Ed.

[c] He joined as a "Shikshan Sevak" on 01/02/2003 with St.Xaviers High School at Ranjankhol, Tal.Rahata, Dist.Ahmednagar. He subsequently was

confirmed as an "Assistant Teacher" after completing 3 years.

[d] He worked as an "Assistant Teacher" till 14/07/2012 when the said school was permanently closed down under the orders of the Education Department.

[e] There was one litigation with regard to the transfer of the applicant and after approaching the competent forum, he succeeded in receiving a judgment setting aside his transfer.

[f] An advertisement was published by respondent No.2/Education Society for appointing Shikshan Sevaks to teach the subjects of English and Geography/physical Education.

[g] The petitioner applied for such post.

[h] He was interviewed by the Management and was appointed as a "Shikshan Sevak" w.e.f. July 2021.

2. The petitioner has approached this Court vide this application putting forth a request that considering his earlier tenure of service with another school of the same Management, he should not be treated as a Shikshan Sevak and that he should be granted regularization as an Assistant Teacher w.e.f. July 2021.

3. In the above backdrop, considering the peculiar facts of this case, we called upon the learned Advocate for the Management to consider whether the probation period of the applicant as a Shikshan Sevak could be

reduced from 3 years to 2 years. The Management has agreed to do so and has consented for the same. The applicant has also expressed his consent to be on probation for 2 years.

4. This application is therefore disposed off with the following observations :-

[a] Considering the peculiar facts of this case and the consent of the parties, the applicant would be working as a "Shikshan Sevak" from July 2021 till 30/06/2023. Thereafter, unless there is any legal impediment, he would be appointed as an "Assistant Teacher".

[b] We have passed this order keeping in view the peculiar facts and that the applicant has only 4 years left for his superannuation.

[c] Respondent No.4/Education Officer (Secondary) shall consider this case as a special case and shall accordingly pass orders for approval of the appointment of the applicant.

[d] It is expected that the applicant would peacefully perform his duties and there would be no occasion for the Management to initiate any action against him.

5. We make it clear that, by this order, we are not laying down any precedent and this order shall not be cited by any party, as a precedent. We are keeping all the contentions of the litigating parties open in WP No.3072/2012.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)