

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13908 OF 2018

Balu S/o Nanasaheb Kadam,
Age : 39 years, Occu. : Service as Teacher,
R/o : At post – Selu, Tq. Ausa,
District – Latur .. Petitioner

Versus

The State of Maharashtra,
Through its Principal Secretary,
School Education Department,
Mantralaya, Mumbai – 32 and others .. Respondents

...
Mr. R.D. Biradar, Advocate for petitioner
Mrs. G.L. Deshpande, AGP for respondent – State
Mr. S.U. Shaikh, Advocate for respondents no. 4 and 5
Writ petition dismissed as against respondent no. 3 as per Court's
order dated 25-01-2019
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CORAM : SUNIL P. DESHMUKH &
ABHAY AHUJA, JJ.
DATE : 22-02-2021

ORDER :

1. Petitioner is before the high court aggrieved by communication dated 22-11-2018 issued by respondent no. 3 – Education Officer (Secondary), Zilla Parishad, Latur, whereunder, it has been stated that pursuant to government resolution dated 04-09-2013, appointments could be made only for Mathematics, Science and English subjects and that in Ganesh Shikshan Prasarak Mandal, Selu, there is backlog of scheduled tribe appointments and

that petitioner's appointment has been from open category for Marathi subject and, therefore, purportedly approval is declined.

2. Mr. Biradar, learned counsel appearing for petitioner has taken us through order passed by division bench of this court dated 23-07-2018 in writ petition no. 5647 of 2017. While the petitioner had been before this court against order rejecting approval to petitioner's appointment, there being large number of surplus candidates available to be absorbed. This court under its aforesaid order had observed that petitioner's appointment is prior to government resolution dated 02-05-2012 and on query, as to whether the Education Officer had for all these years, sent any surplus teachers to respondent – institution, there had been a negative reply. It has further been observed that the institution could not have kept the post vacant for a long period and that there had been no surplus teacher referred to for absorption by the education department and, as such, the division bench had set aside the impugned communication under the writ petition for reconsideration of proposal in accordance with rules, policy and qualification.

3. Thereafter, communication impugned in present petition has been issued.

4. It is discernible that consideration of government resolution dated 04-09-2013 would not been relevant, as it has already been observed under the earlier order of division bench that petitioner's appointment has been prior to 02-05-2012 i.e. on 27-03-2012 and that while earlier proposal had been considered, there had been no reference as to any reservation.

5. As such, reason with reference to government resolution dated 04-09-2013 is unsustainable. It has not come forth clearly, as to whether there was any backlog on the date of appointment of present petitioner and as to whether subject – Marathi had been meant for such reservation, we deem it proper to quash and set aside the impugned communication dated 22-11-2018 issued by respondent no. 3 – Education Officer (Secondary), Zilla Parishad, Latur, restoring the proposal for reconsideration appropriately.

6. The decision would be taken as early as possible preferably within a period of eight weeks from the date of receipt of writ of this order.

7. Writ petition is disposed of accordingly.

[ABHAY AHUJA]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

arp/