

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4960 OF 2016

Vaibhavwadi Taluka Shikshan Sanstha and Ors. ... Petitioners

Versus

The State of Maharashtra and Ors. ... Respondents

Mr. Prashant S. Bhavake for the Petitioners.

Ms. Kavita N. Solunke, AGP for the State-Respondent Nos. 1 to 3.

**CORAM: R. D. DHANUKA AND
A. K. MENON, JJ.**

DATE : 23rd AUGUST, 2021.

P.C. :-

. Leave to amend is granted to the petitioners for carrying out amendment in prayer clauses. Amendment to be carried out forthwith. Re-verification is dispensed with.

2. By this writ petition filed under Article 226 of the Constitution of India, the petitioners have impugned the order dated 16th April, 2015 passed by the respondent no.3-Education Officer refusing individual approval of the appointment of the petitioner no.3 in the post of Shikshan Sevak in the petitioner no.2-Secondary School and for other reliefs.

3. The petitioner no.1-Institution had published an advertisement in the newspaper for the recruitment for the two posts of Shikshan Sevak in the petitioner no.2-Secondary School. After conducting interviews

of the petitioner no.3, he was appointed to one of the said post of Shikshan Sevak by the school committee. The Management thereafter submitted a proposal on 25th June, 2014 to the Education Officer with all requisite documents for individual approval for the appointment of the petitioner no.3 in the said post of Shikshan Sevak. On 8th October, 2015, the respondent no.3 passed an order, refusing to grant the said approval on the ground of the Government Resolution dated 12th February, 2015.

4. Mr. Bhavake, learned counsel for the petitioners invited our attention to the clause 1.8 of the Government Resolution dated 2nd May, 2012 and would submit that the impugned order is contrary to the contention raised by the Education Officer himself in the affidavit-in-reply filed before this Court admitting that there was no surplus drawing teacher in the district of Sindhudurg having qualification of Art Teacher Diploma (ATD) and Art Master (AM).

5. Learned counsel also relied upon the following judgments :-

- (i) Judgment of this Court dated 16th July, 2018 in Writ Petition No. 13485 of 2016 in case of ***Miss Rekha Vithal Said v/s. The State of Maharashtra and Ors.***
- (ii) Judgment of Supreme Court in case of ***Satish Dnyaneshwar Ghodke v/s. State of Maharashtra and Ors., 2016(2) Bom.C.R. 331.***
- (iii) Judgment of this Court dated 10th July, 2017 in Writ Petition No.

8587 of 2016 with connected writ petitions in case of ***Smt.Munoli Rajashri Karabasappa v/s. State of Maharashtra and Ors.***

(iv) Judgment of this Court dated 17th October, 2016 in Writ Petition No. 4232 of 2016 in case of ***Anant Kamlakar Joshi and Ors. v/s. The State of Maharashtra and Ors.***

(v) Judgment of this Court dated 30th April, 2020 in Writ Petition No. 2941 of 2017 in case of ***Shri Gajanan Shahu Keripale v/s. The State of Maharashtra and Ors.***

6. A perusal of the record further indicates that on the vacancy arisen due to the retirement of Shri S. R. Chorage, A. M. Art Master on 31st January, 2012, the petitioner no.3 was appointed to the said post. There was no fresh post created during the period of ban. In our view, the impugned order passed by the Education Officer is passed mechanically, without application of mind and contrary to the principles laid down by this Court in aforesaid judgments, thus deserves to be quashed and set aside.

7. We accordingly pass the following order :-

(i) Impugned order dated 16th April, 2015 passed by the Education Officer, refusing to grant approval of the petitioner no.3 in the post of Art Master (AM) at the petitioner no.2-Secondary School is quashed and set aside.

- (ii) The respondent no.3 is directed to grant approval to the said appointment of the petitioner no.3 within four weeks from today. The respondent no.3 shall release the requisite grant for the said post from the date of initial appointment of the petitioner no.3 to the said post within four weeks from the date of granting approval.
- (iii) Writ Petition is disposed of in aforesaid terms.
- (iv) There shall be no order as to costs.
- (v) Parties to act on the authenticated copy of this order.

[A. K. MENON, J.]

[R. D. DHANUKA, J.]