

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1955 OF 2019

Sunita Shivaji Patil

...Petitioner

V/s.

The State of Maharashtra

Through Its Secretary & Ors.

...Respondents

Mr.Chetan G. Patil for the Petitioner.

Mr.N.K. Rajpurohit, AGP for Respondent Nos.1 and 2-State.

CORAM : NITIN JAMDAR AND
C. V. BHADANG, JJ.

DATE : 19 March 2021

P.C.

. Heard learned Counsel for the parties.

2. The Petitioner aggrieved by the order dated 7 June 2018 passed by the Education Officer(Secondary), Zilla Parishad, Kolhapur rejecting the approval of the Petitioner's appointment.

3. The Petitioner was appointed on 20 June 2016 as Shikshan Sevak pursuant to an advertisement issued on 5 June 2016. The proposal for approval of the Petitioner's appointment was sent to the Education Officer who has rejected the same on the single ground that since the appointment is made after 2 May

2012 and the Government Resolution dated 2 May 2012 places a ban on appointment of teachers, approval cannot be granted.

4. Learned Counsel for the Petitioner pointed out that the Government Resolution dated 2 May 2012 does not place ban on appointments *per se* but it directs that unless certain contingencies are complied with such as absorption of surplus teachers, recruitment should not be resorted to. He submitted that therefore the impugned order based on the absolute ban is not correct.

5. The Government Resolution dated 2 May 2012 only mandates that appointment should not be made till the surplus teachers are absorbed. Not that no appointment should be made at all. The impugned order does not refer to the fact whether surplus teachers are absorbed or not. This fact will have to be examined by the Education Officer.

6. In the circumstances, the impugned order dated 7 June 2018 is quashed and set aside and proposal in respect of the Petitioner's approval is restored to the file of Education Officer (Secondary), Zilla Parishad, Kolhapur who will decide the same as per law in the light of the Government Resolution dated 2 May 2012 and/or any other relevant Government Resolution applicable to the facts of the case and take the decision in the light of what is observed in the order. The decision be taken

within a period of 8 weeks from the date the writ of this Court reaches the Education Officer.

7. The Petition is accordingly disposed of

(C. V. BHADANG, J.)

(NITIN JAMDAR, J.)

Nilam
Kamble

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