

JPP

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

WRIT PETITION NO. 12401 OF 2018

Vaishali Bhimrao Thoke

... Petitioner

V/s.

The State of Maharashtra and Ors.

... Respondents

Mr. Saurabh S. Pakale a/w. Mr. D.B. Kale i/b. Mr. Shankar M. Katkar
for the Petitioner

Mr. S.B. Kalel, AGP for Respondents 1 and 2

***CORAM : S.C. GUPTE AND
SURENDRA P. TAVADE, JJ.***

DATE : 09 FEBRUARY 2021

P.C. :-

Heard learned Counsel for the Petitioner and learned AGP for the Respondents. Rule. Rule taken up for hearing forthwith, by consent of parties.

2. The Petitioner was appointed in Respondent No.4 – School on 15 June 2009 as a Shikshan Sevak. The school management made an application to Respondent No.2 – Education Officer, Secondary for approval to his appointment. Initially, the

proposal was not approved due to insufficiency of documents. In 2014, when the proposal was once again submitted by the school management, it was kept pending and no decision was taken on the proposal. It appears that the basis of refusal to grant approval so far is the Government Resolution of 2 May 2012 which bans recruitments of teachers till 100% absorption of surplus teachers. In a judgment delivered by this Court in the case of *Smt. Munoli Rajashri Karabasappa v/s. State of Maharashtra Through Secretary and Ors. (Civil Writ Petition No. 8587 of 2016 dated 10 July 2017)*, this Court has made it very clear that the ban on recruitment under the Government Resolution on 2 May 2012 does not apply inter-alia to appointments made prior to 2 May 2012. Learned AGP is unable to distinguish the facts of this case from the facts of the case of *Munoli Rajashri Karabasappa*.

3. In the premises, Rule is made absolute and the Petition is allowed by directing Respondent No.2 to consider the Petitioner's case for grant of approval without reference to the Government Resolution of 2 May 2012 or any ban on recruitment under any circular issued by the Government. Such decision shall be taken by Respondent No.2 within a period of six weeks from today.

(SURENDRA P. TAVADE, J.)

(S.C. GUPTE, J.)

Jyoti P.
Pawar

Digitally signed
by Jyoti P. Pawar
Date: 2021.02.12
11:53:20 +0530