

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5018 OF 2021

Tabish Khan S/o Zafar Khan,
Age : 30 Years, Occu. : Service,
R/o Shambhu Nagar, Peer Bazzar,
Aurangabad.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
School Education Department,
Government of Maharashtra,
Mantralaya, Mumbai – 32.
 2. The Education Officer (Secondary),
Zilla Parishad, Aurangabad.
 3. Moin-Ul-Uloom High School,
Silk Mills Colony, Aurangabad,
Through its Head Master.
- .. Respondents

Shri Chandrakant K. Shinde, Advocate for the Petitioner.
Mrs. R. P. Gour, A.G.P. for Respondent Nos. 1 and 2.
The Respondent No. 3 is served.

**CORAM : C. V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.
DATE : 20TH JULY, 2022.**

ORAL JUDGMENT (Per C. V. Bhadang, J.) :

. Rule. Rule made returnable forthwith. The learned Assistant Government Pleader waives service of rule for respondent Nos. 1 and 2. Heard finally by consent of parties.

2. This is the second round of litigation, wherein the respondent No. 2/Education Officer has refused to grant approval to the appointment of the petitioner as an Assistant Teacher. In the earlier round, the proposal of the petitioner was rejected on the ground that there was ban on recruitment. This Court by order dated 20th September, 2017 in Writ Petition No. 9899 of 2016 had directed the Education Officer to reconsider the proposal seeking approval afresh. Now, the proposal is rejected on the ground based on the Government Resolutions dated 12th February, 2015 and 13th July, 2016.

3. The principal contention on behalf of the petitioner is that, the appointment of the petitioner is much prior to the aforesaid Government Resolutions, as the petitioner is appointed on 05th July, 2012. In such circumstances, it is submitted that, the appointment cannot govern itself by virtue of the Government Resolutions of the year 2015 and 2016.

4. This petition was adjourned to enable the learned Assistant Government Pleader to look into the contention, as raised and the papers and then make appropriate statement. The learned A. G. P. now states that, in view of the fact that the appointment of the petitioner is prior to the Government Resolutions, the Education Officer can look into the matter of grant of approval afresh.

5. In that view of the matter, the petition is allowed. The

impugned order is hereby set aside. The respondent No. 2/Education Officer shall reconsider the proposal of the petitioner for grant of approval afresh, on its own merits and in accordance with law and policy. However, same shall not be rejected by placing reliance on the Government Resolutions dated 12th February, 2015 and 13th July, 2016. The Education Officer shall decide the proposal as expeditiously as possible and preferably within a period of six (06) weeks from today.

6. Rule is made absolute in above terms. No costs.

[SANDIPKUMAR C. MORE J.]

[C. V. BHADANG, J.]

bsb/July 22