

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

Writ Petition No. 2485 of 2020

Shri Faiyaj Munavaralli Inamdar	...	Petitioner
v/s.		
The State of Maharashtra & ors.	...	Respondents

Mr. Y.B. Lengare for the Petitioner.
Mr. V.M.Mali, AGP for the State.

**CORAM : SUNIL B.SHUKRE &
G.A. SANAP, JJ.**

6th April 2022

P.C.

Heard learned Counsel for the parties.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

3. The Petitioner who is an OBC candidate has been appointed as an Assistant Teacher by Respondent Nos. 4 to 6 in the year 2012 on a post which was reserved for Schedule Tribe category. The proposal for

approval of that post has been rejected by Respondent No.3 by passing detailed order dated 20th February 2019. This is the order which is sought to be reviewed herein.

4. On going through the impugned order, we find that the Education Officer has noted as many as 12 deficiencies in the proposal because of which he expressed an opinion that no approval to appointment of the Petitioner would be granted. These deficiencies were as follows:

- i) Management did not submit copy of the duly verified roster of the relevant period.
- ii) Management did not submit duly signed appointment order.
- iii) Management did not submit details of the candidates interviewed, marks allotted and resolution passed by the management.
- iv) The post was filled up without making any correspondence with concerned Backward Class Association. There were atleast 3 candidates who had received more marks than the Petitioner. The Petitioner did not have sufficient experience.

5. In addition to above deficiencies, a few more deficiencies have also been pointed out.

6. The reply filed by Respondent Nos.4,5 and 6 does not specifically deal with the aforesaid deficiencies. There is also no copy of duly verified roster of the relevant period which is filed on record. The management has also not justified its action of appointing the Petitioner (an OBC candidate) on a post reserved for Schedule Tribe by producing on record the G.R. which permits interchangeability of seats.

7. We are, therefore, of the view that unless all the deficiencies referred to above are removed, the appointment of the Petitioner as Assistant Teacher cannot be approved by any officer.

8. There also appears to be something suspicious in appointment of the Petitioner. Learned AGP has invited our attention to the communication dated 3rd October 2018 (Page-31 of the paper-book). On its perusal, we find that one Babar, Assistant Teacher tendered his resignation with effect from 31st July 2012 and, therefore, it cannot be said that the post on which the Petitioner has been appointed, as per the contention of the Petitioner himself, could have been considered to have fallen vacant even before 31st July 2012 and yet advertisement has been issued by the management on 19th April 2012. There is one more fact which adds to the suspicion and it is about the manner in which the Petitioner has been appointed. As pointed out by learned

AGP, the proposal seeking approval to the appointment of the Petitioner has been sent by the management after a delay of more than 6 years on 31st October 2018. In this communication dated 3rd October 2018, there is no explanation given by the management as to why the appointment of the Petitioner made with effect from 21st August 2012 was being sought to be approved in October 2018. The copy of the Roster for the year 2010 filed on record also discloses a disturbing fact. This roster has been duly verified by the Backward Class Cell and it shows that in the year 2010, there were 22 vacancies available for Schedule Tribe category candidates. Neither Petitioner Nor Respondent Nos.4 to 6 have filed on record copy of the verified roster for the year 2012 or the relevant roster for the purpose of approval of the appointment of the Petitioner. So, as of now, one has to go by the duly verified roster of the year 2010 and accordingly, it can be presumed that when the appointment of the Petitioner was made on a post reserved for Schedule Tribe category in 2012, there were in all 22 vacancies in Schedule Tribe category. However, as seen from the advertisement issued, the management indicated in the advertisement only one vacancy for Schedule Tribe category. These facts deepen the suspicion expressed by us over the appointment of the Petitioner and now it can be said that there is a reasonable probability of the appointment of the Petitioner having been made in an irregular manner.

9. In the circumstances, we find no error in the impugned order. There is no merit in the Petition. The Petition stands dismissed. Rule is discharged. No costs.

(G.A.SANAP, J)

(SUNIL B.SHUKRE, J)

Lata Panjwani, P.S.