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

WRIT PETITION NO.8819 OF 2018

Pushpa Bhimrao Patil

..... Petitioner

Vs.

The State of Maharashtra and Ors.

..... Respondents

Mr.Chetan G. Patil for the Petitioner

Mrs.S.S.Bhende, A.G.P. for the State

**CORAM: S.V. GANGAPURWALA &
S.M. MODAK, JJ.**

DATED : JUNE 22, 2022

P.C.

1. The proposal seeking approval to the appointment of the petitioner as Shikshan Sevak is rejected.

2. The learned counsel for the Petitioner submits that upon superannuation of three teachers, the management on 12.05.2015 requested the Education Officer to send surplus teachers else be permitted to advertise the post. Thereafter, advertisement was issued. The petitioner was appointed on 15.06.2015. The learned counsel submits that the

Education Officer, at no material point of time, sent surplus teachers to the institution. During the pendency of the Writ Petition, again, the proposal was sent and the same has been returned in view of the fact that the instant Writ Petition is pending.

3. The learned A.G.P. submits that the management issued advertisement without seeking permission from the Education Officer. The appointment of the petitioner was issued without absorbing the surplus teachers. There were approximately 244 surplus teachers on the Wait List who were not given appointments.

4. We have considered the submissions.

5. The Education Officer, in his affidavit, has not disputed receipt of application from the management seeking permission to advertise the post, so also, asking the Education Officer to send surplus teachers, the Education Officer did not respond to the said application and thereafter, advertisement was issued. It is also not clarified by the Education officer that the Education officer, at any

material point of time directed the institution to absorb the surplus candidates. Atleast no such averments are made by the Education Officer in the affidavit.

6. In light of that, impugned orders are quashed and set aside.

7. Education Officer shall reconsider the proposal to the appointment of the Petitioner, afresh on its own merits and shall not reject it on the ground that the permission of the Education Officer was not obtained and that surplus teachers were not absorbed.

8. In case, there is some deficiency in the proposal, necessary documents shall be supplied to the Education officer. The said proposal shall be decided afresh preferably within three months.

9. Writ Petition is disposed of. No costs.

(S.M.MODAK, J.)

(S.V. GANGAPURWALA, J.)