

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

WRIT PETITION NO.12203 OF 2023

BAPU RAGHUNATH BARI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

....

Mr. Ashraf Patel Shaikh, Advocate for Petitioner

Mr. P. K. Lakhotiya, AGP for Respondent – State

Mr. Rajesh H. Mewara, Advocate for Respondent No.4

Mr. Ajit B. Kadethankar, Advocate for Respondent No.5

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**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 12.10.2023

PER COURT :-

1. The Petitioner has put forth prayer clauses [B] and [C]

as under:-

“[B] To quash and set aside order dated 15/07/2019 issued by the Respondent No.3 wherein the Petitioner was appointed as Booth Level Officer at Election Center No.326, Jamner, Dist. Jalgaon, by issuing writ of certiorari or any other appropriate writ, order or direction as the case may be.

[C] Pending hearing and final disposal of this Writ Petition, the order dated 15/07/2019 issued by the Respondent No.3 wherein the Petitioner was appointed as Booth Level Officer at Election Center No.236, Jamner, Dist. Jalgaon may kindly be stayed.”

2. The issue raised in this Petition with regard to deploying a teacher on Booth Level Officer's duty, has been dealt with by the Hon'ble Supreme Court in *Election Commission of India Vs. St. Marys School and others, 2008 AIR (SC) 655*.

3. The Petitioner has been issued with the impugned order which has the colour of being a regular appointment for performing the duty of First Level Checking of the EVM-VVPAT machines.

4. The learned AGP submits in the light of *St. Marys School* (supra) that the authorities would ensure that none of the teachers/Head Master are posted on elections/election related duties on any working day. Only in exceptional circumstances, they may be posted during non-working hours on a working day.

5. In view of the above, **this Writ Petition is partly allowed.** The impugned order dated 15.07.2019 is quashed and set aside. We permit the State to modify the directions to such employees, so as to be in tune with the law laid down in *St. Marys School* (supra).

[Y. G. KHOBRADE, J.]
SMS

[RAVINDRA V. GHUGE, J.]