



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

WRIT PETITION NO. 4261 OF 2024

Umakant Babanrao Kulkarni .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Arvind G. Ambetkar, Advocate for the Petitioner.

Shri Sarang P. Joshi, A.G.P. for the Respondent Nos. 1 to 3.

Shri Ajay T. Kanawade, Advocate for the Respondent Nos. 4 and 5.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.**

DATE : 26 JULY, 2024.

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both the sides finally.

2. The petitioner is challenging order dated 05.02.2024 passed by respondent no. 3-Education Officer granting approval as a Shikshan Sevak to the petitioner from 15.06.2022. According to petitioner the approval in question is defective. The petitioner was rendering services as a part time Laboratory Assistant with the respondent-management since 01.07.2007. After acquiring qualification he was appointed to the post of Assistant Teacher from 18.05.2022. An appointment order which is placed on record indicates that he was appointed as a full timer in the pay scale. However, by the impugned order petitioner was approved as

Shikshan Sevak instead of Assistant Teacher.

3. The learned advocate places reliance upon judgment rendered by the division bench of this Court in the matter of **Suhas s/o Rangraoji More Vs. State of Maharashtra and others in Writ Petition No. 7706 of 2022 decided on 22.12.2023**. Relevant paragraph no. 21 of the judgment reads as follows :

“21. Under the circumstances, it is held that (i) Clause 8 of G.R. dated 10.06.2005, which stipulates promotion of non teaching staff as Shikshan Sevak on payment of honorarium is arbitrary and discriminatory. (ii) The petitioner is entitled to be appointed as Assistant Teacher with the prescribed pay scale at par with pay scale of other similarly placed promotees. (iii) Respondent No.5 - Management to modify the appointment order dated 29.10.2021 to the extent of appointing/promoting the petitioner as Assistant Teacher instead of Shikshan Sevak. (iv) Respondent No.5 – Management, is directed to submit the proposal to respondent No.4 for approval of appointment/promotion of the petitioner as Assistant Teacher with pay scale of Assistant Teacher within four weeks from the date of the order. (v) Respondent No.4 to consider the same as expeditiously as possible in any event within four weeks from the date of the receipt of the proposal.”

4. The legal position laid down in the judgment (supra) has not been disputed. In view of the law laid down by the coordinate bench, impugned order approving the petitioner as a Shikshan

Sevak is contrary and needs to be rectified.

5. The petitioner is entitled to the correction in his order of approval. In that view of the matter petition succeeds. We therefore pass following order.

6. The Writ Petition is partly allowed in terms of prayer clause 'B', which is as under :

‘B) By issuing Writ of Mandamus of any other appropriate writ or order or direction in the like nature, the Hon’ble Court may kindly be pleased to direct the Education Officer (Secondary), Zilla Parishad, Ahmednagar to modify/correct the approval order dated 05.02.2024 as Exh.-”G” to the extent of the “Assistant Teacher” in prescribed pay scale instead of “Shikshan Sevak” within a stipulated period of 4 weeks.’

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/July 24