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

WRIT PETITION NO. 3138 OF 2022

Vishal Vikas Tendulkar

... Petitioner

V/s.

The Secretary/Chairman, Rayat
Shikshan Sanstha, Satara and Ors.

... Respondents

Mr. Anwar Shaikh for the Petitioner

Mr. Milind Deshmukh for the Respondent No.

Mr. Vishal A. Kadam for the Respondent No.

***CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.***

DATE : 09 FEBRUARY 2024

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner and the Respondent No.8 applied pursuant to the advertisement issued by the Respondent No.1 – Institution for the post of Assistant Professor in Physics to Economically Weaker Section (EWS) Category for the Academic Year 2019-20.

3. The Respondent No.8 is appointed to the said post while the Petitioner is kept on a Waiting List. The issue raised by the Petitioner is that the Respondent No.8 did not possess the valid certificate as belonging to Economically Weaker Section on the relevant date. According to the Petitioner, the Respondent No.8 had submitted EWS certificate dated 6 September 2019 which was not as per the prescribed norms and the certificate as per the prescribed norms was submitted by the Respondent No.8 of the date 9 March 2020 after the appointment was given to the Respondent No.8 on 1 January 2020. According to the Respondent No.8, there is no error in appointing the Respondent No.8 as the Government Resolution issued by the State of Maharashtra permitted such course of action for the candidate belonging to Maratha Community. Thus, what we have before us is a dispute as regards the appointment made to a teaching post in an aided institution. We are informed that the Respondent – Institution has submitted the proposal for the approval of appointment of the Respondent No.8. We are also informed that due to the pendency of this Petition, no decision is taken. Also there is no clarity as to whether proposal for approval to the appointment of the Respondent No.8 is submitted by the Respondent – Institution. If it is not submitted, the same be submitted within a period of four weeks. Not because we have commented on merits of the case of the Respondent No.8 but we intend to call upon the Education Authorities to decide the issue. If

the proposal for approval so submitted would be decided by the Education Authorities. However, before deciding the same, the concerned Authority will give notice to the Petitioner as well and the Respondent No.8, and the Institution and decide the issue as to whether the approval to the post of the Respondent No.8 is to be given or not, after giving an opportunity to the Institution. In that regard, we keep all contentions open.

4. The Writ Petition is disposed of.

M.M. SATHAYE, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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by JYOTI
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