

Writ Petition No.1794 of 2022

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions Registrar's orders.	Court's or Judge's order
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CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.
DATE : 8th AUGUST, 2024

1. The petitioner, who was working as Assistant Teacher, sought approval to his appointment, which proposal was referred by the respondent No.3-Education Officer (Secondary), Zilla Parishad, Akola, to the respondent No.2-Deputy Director of Education, Amravati Division, Amravati, who has ruled in favour of the petitioner on 9-5-2018 by making the following observations :

- (a) that the qualifications of the petitioner are B.Sc.(Maths), B.Ed.,
- (b) that the petitioner was appointed on 23-6-2004 and he is working from the date, the change of Management was effected,
- (c) that as per the roster point and approval order, the petitioner is working on the post which is meant for open category,

(d) that one post of Assistant Teacher holding the qualification of B.Sc. is reserved for Scheduled Tribe category, and

(e) that as per the order of the School Tribunal, Amravati, passed on 20-2-2013 in Appeal No.15 of 2011 and the order dated 28-11-2017 delivered in Writ Petition No.1721 of 2013, the services of the petitioner are protected and as such, his services are required to be approved.

2. After the aforesaid order, the impugned order dated 15-9-2021 came to be passed by the respondent No.3-Education Officer, thereby an observation is made that the petitioner cannot be permitted to join the post.

3. The respondent No.3-Education Officer, without considering the observations made by the respondent No.2-Deputy Director of Education, has proceeded to pass an order, thereby recording a finding that the petitioner cannot be granted approval on the post of Assistant Teacher, as there are already number of teachers working on the post of Assistant Teacher from open category.

4. The counsel for the respondent Nos.4 and 5-Management has stated that after the roster point was approved, as on today, there exists a sanctioned post from OBC category for a candidate who is holding the qualifications of B.Sc.(Maths), B.Ed.

5. It is also brought to our notice that in Writ Petition No.6623 of 2017 preferred by another teacher, viz. Praful Prakash Shete, the Education Officer was directed to pass an order in relation to approval to be granted to the said petitioner.

6. We are informed that though there is an impugned order operating in favour of said Praful Prakash Shete since 25-11-2019, no decision is taken.

7. It is the case of the petitioner that he is more qualified and senior to the said candidate, viz. Praful Prakash Shete, and in that eventuality, the claim of the petitioner for grant of approval should be considered over and above the claim of the said candidate- Praful Prakash Shete.

8. The fact remains that the respondent No.2-Deputy Director of Education has already made certain observations in favour of the petitioner in his order dated 9-5-2018. The said observations are not considered by the respondent No.3-Education Officer while passing the order dated 15-9-2021.

9. It is the claim of the petitioner that said Praful Prakash Shete in Writ Petition No.6623 of 2017 is junior and less qualified.

10. In such eventuality, it is for the respondent No.3-Education Officer to consider the issue of grant of approval having regard to the date of appointment, the qualifications and the existence of vacancy, particularly keeping in view the observations made by the Deputy Director of Education in his order dated 9-5-2018.

11. That being so, we permit the petitioner to appear before the respondent No.3-Education Officer on **26-8-2024**, who is directed to consider the claim of the petitioner afresh having regard to the order passed in Writ Petition No.6623 of 2017 on 25-11-2019 and the observations made by the Deputy Director of Education in the order

dated 9-5-2018 in regard to the qualifications and the existence of vacancy.

12. Let the order be passed by the respondent No.3-Education Officer and communicated to the petitioner within a period of eight weeks from the date of appearance of the petitioner before the said Authority.

13. With the above observations and directions, the petition stands disposed of. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)