

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

WRIT PETITION NO.536 OF 2024

Vikram Vasant Galande,
Age 33 years, Occ.-Service,
R/O.Galandwadi No.1, Indapur,
Tal.Indapur, Dist.Pune-413 106.

Petitioner

versus

1. The Education Officer (Secondary),
Zilla Parishad, Pune.
2. The State of Maharashtra through
its Secretary, School Education Dept,
Mantralaya, Mumbai-400 032.
3. Indapur Taluka Shikshan Prasarak
Mandalache Tal.Indapur, Dist.Pune
through its President/Secretary.
4. Mr. Narayandas Ramdas High School
and Junior School (Vidnyan), Indapur,
Dist.Pune-413 106.

Respondents

Mr. Rajaram Deshmukh with Ms. Ankita Salvi, Advocates for Petitioner.
Mr. Aditya R. Deolekar, AGP, for Respondent Nos.1 to 4.

**CORAM : SHREE CHANDRASHEKHAR &
AARTI SATHE, JJ.**

DATE : 22nd August 2025

Per, Aarti Sathe, J. :

The petitioner by way of the captioned petition challenges the order dated 16th October 2018 passed by the respondent no.1, that is, the Education Officer (Secondary), Zilla Parishad, Secondary Zilla Parishad, rejecting the proposal dated 30th July 2018 submitted by the respondent no.3 for approval of the appointment of the petitioner on the teaching post as Shikshan Sevak and for the payment of monthly salary and arrears of salary to the petitioner.

2. The petitioner is working on the post of Assistant Teacher at the Secondary School, Indapur, Tal.Indapur, Dist.Pune. The aforesaid School is private, approved, aided and having 5th to 10th standards and presently 4,749

students are taking education in the above School, as stated in the petition. The petitioner was appointed on the post of Shikshan Sevak on 15th June 2018 as the vacant post became available due to the promotion of the earlier teacher.

3. The petitioner is a qualified teacher and possesses a B.Sc; B.Ed degree. The petitioner belongs to the open category and his appointment is against the clear vacancy of teaching post and as per the due procedure of Rules and Regulations of appointment/selection. The petitioner is also teaching compulsory subjects like Mathematics and Science to 8th standard to 10th standard from the date of joining his service. Hence, the petitioner fulfills all the criteria for the aforesaid appointment.

4. In view of the aforesaid, the respondent no.3 submitted the proposal for approval on 30th July 2018 to the respondent no.1 for approval of the petitioner's post as Shikshan Sevak. In spite of repeated follow ups, the respondent no.1 did not accord sanction to the proposal sent by the respondent no.3. Finally, the respondent no.1 passed an order dated 16th October 2018 rejecting the proposal of approval of the petitioner as Shikshan Sevak/Assistant Teacher on the ground that the petitioner's appointment dated 15th June 2018 is after the Government Resolution (G.R.) dated 23rd June 2017, which order is impugned in the present petition.

5. We have heard the rival submissions and perused the record. It is the case of the petitioner that rejection of the petitioner's proposal for approval on the ground that the petitioner's appointment dated 15th June 2018 is after the Government Resolution dated 23rd June 2017 is not tenable in view of the fact that the petitioner has been appointed with due procedure of selection, that is, in view of prior permission by the Education Officer, advertisement, roaster, staffing pattern etc. It is also the petitioner's contention that the ban imposed by the State Government dated 2nd May 2012 for appointment of teaching staff is not applicable for the present petitioner as the petitioner is teaching compulsory subjects like Mathematics and Science whereby conditions were

relaxed for granting the approval for appointment of teacher. The petitioner further contends that the Government has also issued G.R dated 24th August 2018 to set guidelines for giving an approval to the teaching post.

6. The Division Bench of this Court had an occasion to consider a similar issue which also covered the above G.R. dated 2nd May 2012 and subsequent G.R.s issued by the Government, specifically G.R. dated 4th September 2013 which relaxed the ban imposed on recruitment of teachers by G.R. dated 2nd May 2012, insofar as teachers teaching English, Mathematics and Science are concerned. The Division Bench has decided the aforesaid issue by its judgment and order dated 10th July 2017 in Writ Petition No.8587 of 2016 by referring to the judgment and order passed in Writ Petition No.10580 of 2015 with Writ Petition No.1145 of 2016 decided on 9th March 2017. Relevant paragraphs of the aforesaid judgment dated 10th July 2017 are as follows :

“7. In that view of the matter, we find that in view of the subsequent GRs and in view of the view taken by the Division Bench of this Court, the ban would not be applicable to three categories, one where the recruitment process is already commenced prior to GR dated 2nd May 2012, second, in so far as the appointment made for the subjects of English, Maths and Science are concerned and third, where the recruitment is made to fulfil the backlog of reserved category candidates.

8. We find that at the same time the State should take into consideration, that such situations arise on account of inaction of its own Education Officers. If Education Officers act promptly and ensure that the surplus teachers are absorbed in the schools wherever there is a vacancy, such a situation would not arise. However, as already observed hereinabove on account of inaction on the part of Education Officers, right which has become fundamental, in view of amendment to the constitution by which Article 21A brought in the Constitution, cannot be permitted to be frustrated. The schools are not expected to run without teachers for years together. The State would always be at liberty to take appropriate action against its officers, on account of who's inaction the State exchequer will be burdened.

9. In the result the Writ Petitions are allowed and impugned orders are quashed and set aside. Respondents-Education Officers are directed to examine independent cases and grant approval to each of the teachers who fall in the following three categories :-

(a) Where the recruitment process is already commenced prior to GR

dated 2nd May 2012;

(b) Where the appointments made for filling up vacancies in English, Mathematics and Science;

(c) Where the recruitment is made to fulfil the backlog of reserve categories candidates.

10. The necessary orders after hearing the management and teachers be passed within a period of six weeks from today.”

7. The aforesaid judgment and order has been followed by a subsequent Division Bench of this Court in Writ Petition No.10062 of 2017, wherein this issue has been dealt with and squarely covers the case of the petitioner. Relevant paragraphs of the said judgment are reproduced below :

“5. The Division Bench of this Court had an occasion to consider the aforesaid Government Resolution. The Division Bench to which one of us (B.R.Gavai) was a Member, by its judgment and order dated 10th July 2017 has decided the same. The Division Bench in its order in para 7 has observed thus :-

‘7. In that view of the matter, we find that in view of the subsequent GRs and in view of the view taken by the Division Bench of this Court, the ban would not be applicable to three categories, one where the recruitment process is already commenced prior to GR dated 2nd May 2012, second, in so far as the appointment made for the subjects of English, Maths and Science are concerned and third, where the recruitment is made to fulfil the backlog of reserved category candidates.”

6. It could thus been seen that the Division Bench held that the said G.R .would not be applicable to the teachers who are appointed for the subject Mathematics. The contention of the petitioner that he was appointed in the subject of Mathematics has remained unchallenged since the respondent state has not chosen to file reply.

7. In that view of the matter, we find that the petitioner is governed by the judgment and order of this Court in Writ Petition No.8587 of 2016 along with companion matters decided on 10th July 2017.

8. The respondent Nos.2 and 3 are directed to grant approval to the appointment of petitioner. The same shall be done within four weeks from today. Salary of the petitioner shall be paid within a period of eight weeks from today.”

The order dated 10th July 2017 has been followed in subsequent judgments by the Division Bench of this Court too.

8. The respondent nos.1 and 2 have not filed any reply till date to controvert the contentions raised by the petitioners with regard to the contention of the petitioner that he continued to teach the compulsory subjects like Mathematics and Science and hence, the same remains unchallenged.

9. In that view of the matter, we find that the petitioner is governed by the judgments and orders of this Court in following Writ Petitions viz. :

(i) Writ Petition No.8587 of 2010 with companion matters decided on 10th July 2017,

(ii) Writ Petition No.10062 of 2017 dated 24th November 2017 and

(iii) Writ Petition No.11090 of 2016 along with companion matters decided on 18th September 2017.

10. We, therefore, pass following order :

ORDER

(i) The Writ Petition is allowed and the order dated 16th February 2018 (impugned order) by the respondent no.1 is quashed and set aside;

(ii) The respondent no.1 is directed to grant approval for the teaching post, that is, Shikshan Sevak to the petitioner subject to his fulfilling other conditions, if any, and grant the Shalarth ID to the petitioner in order to start the monthly salary of the petitioner for the approved permanent post and to pay the regular salary to the petitioner along with all the arrears. The approval shall be granted within four weeks from the date of uploading the order;

(iii) Salary of the petitioner along with arrears shall be paid within a period of eight weeks from the date of uploading the order;

(iv) All concerned to act on an authenticated copy of this order.

(AARTI SATHE, J.)

(SHREE CHANDRASHEKHAR, J.)