IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17944 OF 2024

Savita Gajanan Bandre ...Petitioner

Versus

The State of Maharashtra and Others ...Respondents

Mr. Prashant Bhavake, for the Petitioner.
Ms. Tejas J. Kapre, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh & Neeraj P. Dhote, JJ.

Date : October 01, 2026.

P. C. :

1. By this Petition, the order dated 16th November, 2022, passed by Respondent No. 5 – Education Officer, rejecting the Petitioner's proposal seeking appointment to the post of Shikshan Sevak, has been impugned.

2. The facts, as set out in the Petition, are that the Petitioner belongs to Hindu-Mahar caste, which is recognized as Scheduled Caste, and possesses the academic qualifications of B.A., B.Ed. The Respondent No.7 – School is run by Respondent No. 6 – Educational Institution and by reason of promotion of an Assistant Teacher, Shri R. G. Deshmane, to the post of Superintendent, a vacancy in the post of Shikshan Sevak was

created and as per the roster, the said vacancy was required to be filled up from the candidate belonging to the Scheduled Caste category. It is pleaded that before proceeding to fill up the vacancy in the last week of January 2014, the representative of Respondent No.6 – Educational Institution approached the office of Respondent No.5 to ascertain whether any suitable candidates were available for the post of Shikshan Sevak. However, no suitable surplus teacher was available for absorption on the said proposed vacancy. The Respondent No.6 published an advertisement in a daily newspaper on 16th January, 2014, for recruitment to the post of Shikshan Sevak from the Scheduled Caste category. The Petitioner applied for the said post and was duly selected with effect from 1st February, 2014.

3. On 16th June, 2014, the Respondent No. 7 – School submitted a proposal for individual approval to the appointment of the Petitioner to the post of Shikshan Sevak. However, no decision was taken on the said proposal. The Petitioner, therefore, filed Writ Petition No.9854 of 2023 before this Court, and by order dated 22nd August, 2022, the Petition came to be disposed of, directing the Respondent No.5 to decide the said proposal within six months.

4. On 13th October, 2022, Respondent No. 7 – School resubmitted fresh proposal, which came to be rejected by the impugned order. Hence, the present Petition.

5. Mr. Bhavake, learned counsel appearing for the Petitioner, would point out the impugned order and has taken this Court through each and every ground of rejection of the proposal. He submits that reliance is placed on the Government Resolution dated 2nd May, 2012, which imposes a ban on recruitment. He submits that in the case of ***Smt. Munoli Rajashri Karabasappa Vs. State of Maharashtra Through Secretary & Others***[1], this Court considered the said Government Resolution and has excluded three categories from the ban and the third category is where recruitment is made to fulfill the backlog of reserved category candidates.

6. He would submit that the other ground is about not taking prior permission for issuance of advertisement and non-absorption of surplus teachers. He points out the pleading in paragraph 3 of the Petition that Respondent No.5 was approached to ascertain whether any suitable candidates were available, and no suitable surplus teacher was available for absorption. He submits that though the affidavit-in-reply has been filed by Respondent No.5, the said pleading has remained uncontroverted. He would submit that the third ground is as regards the staffing pattern. He points out that the reason given is that for the academic year 2013-2014, there were 44 sanctioned posts; however, 42 posts were filled, and in February 2014, 44 teachers were working. For

1 Writ Petition No. 8587 of 2016 dated 10th July, 2017.

the academic year 2014-2015, 39 posts were sanctioned and 42 employees were working. He submits that based on the same, the Education Officer has held that for the year 2014-2015, as per the staffing pattern, three sanctioned posts of teachers were reduced, and despite thereof, 42 employees were found to be working, which is in excess of the sanctioned posts. He points out that the staffing pattern for the academic year 2013-2014 which shows the total aided sanctioned posts as 44, and in 2014-2015, it shows the reduced sanctioned aided posts as 39. He points out that the staffing pattern was finalized in the year 2017. He submits that by reason of the staffing pattern of 2014-2015, as the Petitioner was appointed for the academic year 2013-2014, the Petitioner became surplus. He submits that the Government Resolution dated 27th June, 2016 provides that in such eventualities, the Government has taken a decision not to terminate their services and for them to be absorbed with continuity of service. He submits that in view thereof, the same cannot be said to be a ground for rejection. He would submit that the other reason as regards the submission of the roster is unsustainable, as the same was placed on record.

7. *Per contra,* learned AGP would support the impugned order and would submit that there is nothing on record to demonstrate that the staffing pattern on which reliance has been placed by the Petitioner has

been verified. She would further submit that the Petitioner was appointed for Hindi and History subjects with effect from 1st February, 2014, and as per the Government Resolution of 2nd May, 2012, the appointment of a new Shikshan Sevak was prohibited. She would further point out that the Education Officer has considered the staffing pattern to hold that there is an excess staff of three employees, which cannot be disputed. She submits that considering the reasons for rejection, there is no warrant for interference.

8. We have considered the submissions and perused the record.

9. Though a specific pleading has been made in the Petition that before filling up the post, Respondent No. 6 approached the office of Respondent No. 5 – Education Officer to ascertain whether any suitable candidates were available for the post of Shikshan Sevak, there is no denial of the said pleading, nor is there any positive assertion in the affidavit-in-reply of Respondent No. 5 about the availability of suitable surplus teacher.

10. In the absence of any positive assertion demonstrating that a suitable surplus teacher was available at the relevant time, the rejection on the ground of non-absorption of surplus teacher cannot be sustained. The ban on the recruitment process imposed by the Government Resolution of 2nd May, 2012 was considered in the decision of ***Smt. Munoli Rajashri Karabasappa Vs. State of Maharashtra***

Through Secretary & Others (supra) which considered the decision in the case of **Sou. Revati Kusha Wagh and another v. The State of Maharashtra and another[2],** taking a view that the ban would not be applicable where the appointments are made so as to fulfill the backlog of backward class candidates.

11. The Petitioner belongs to the Scheduled Caste, and therefore, the embargo on recruitment imposed by the Government Resolution dated 2nd May, 2012 would not apply.

12. Insofar as the rejection on the ground of staffing pattern is concerned, the Education Officer has opined that according to the Sanch Manyata for the year 2013-2014 there were a total of 44 approved sanctioned posts, including 1 post of Principal, 1 post of Vice-Principal, 2 posts of Supervisor, and 40 teachers, while 42 posts were operational. It is further noted that as per the 2014-2015 Sanch Manyata, 39 posts were approved, but total of 42 posts were operational, and as per the attendance Register of June 2014, 44 employees were working, and therefore, there was an excess staff of three employees in the said school.

13. Mr. Bhavake has drawn attention of this Court to the Sanch Manyata for the year 2013-2014 and 2014-2015. As per the Sanch Manyata of 2013-2014, there were 44 approved sanctioned posts, which

2 Writ Petition No. 10580 of 2015 with 1145 of 2016, decided on 9th March, 2017.

came to be reduced to 39 for the academic year 2014-2015.

14. The Petitioner was appointed on 16th June, 2014, and by the Government Resolution, it was noted that by reason of fixing the staffing pattern for the year 2013-2014 and 2014-2015, certain Shikshan Sevaks would be considered surplus, and a decision was taken to absorb such surplus Shikshan Sevaks who have been rendered surplus due to the approval of the Sanch Manyata.

15. The decision taken by the Government notes that the staffing pattern has been approved in the year 2016 and the Shikshan Sevaks who were appointed prior to the order of fixing staffing pattern and they came to be rendered surplus, they should be given continuity of service as full-time teachers and absorbed.

16. The Government Resolution specifies that the decision applies only to Shikshan Sevaks who have been rendered surplus by reason of the Sanch Manyata for the year 2013-2014 and 2014-2015. It cannot be disputed that the impugned order refers to the Sanch Manyatas which have been placed on record, and therefore, the contention of learned AGP that the Sanch Manyata relied upon by the Petitioner are not verified is unacceptable. The impugned order itself makes a reference to the Sanch Manyata for the year 2013-2014 and 2014-2015 and the approved sanctioned posts, which correspond to the Sanch Manyata relied upon by the Petitioner.

17. Considering the Government Resolution dated 27th June, 2016, the Petitioner's proposal could not have been rejected on the basis of the Petitioner being considered surplus due to the Sanch Manyata. The Education Officer has not taken into consideration the Government Resolution of 27th June, 2016.

18. In light of the above discussion, the reasons set out in the impugned order for rejecting the proposal submitted by the Petitioner is clearly unsustainable. Resultantly, the impugned order dated 16th November, 2022 is hereby quashed and set aside.

19. The Respondent No.5 is directed to grant approval to the appointment of the Petitioner to the post of Shikshan Sevak with effect from 1st February, 2014, and to grant approval to the appointment of the Petitioner as permanent Assistant Teacher in the regular pay - scale with effect from 1st February, 2017, within a period of four weeks.

20. The Respondent No.4 to include the name of the Petitioner in the Shalarth Pranali and issue the Shalarth ID within a period of two weeks thereafter and to release the grant-in-aid salary within a period of three weeks.

21. The Petition is allowed in the above terms.

[Neeraj P. Dhote, J.] **[Sharmila U. Deshmukh, J.]**