

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 685 OF 2003

AJIT CHANDRABHAN WAGH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for petitioner : Mr. P. R. Patil
A.G.P. for respondent Nos. 1 & 2 : Mr. S. R. Palnitkar
.....

**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 2nd FEBRUARY, 2015

PER COURT :-

1. This petition challenges the order dated 04.01.2003 passed by the Education Officer (Secondary), Zilla Parishad, Jalgaon, declaring the petitioner as surplus teacher in the respondent No. 4-school run by respondent No. 3. The facts are admitted and are as under :

2. In 1990, the petitioner was appointed as an untrained teacher in the said School. In 1994, the petitioner secured Bachelor of Education (B. Ed.) degree and was declared as trained graduate teacher. Due to reduction in number of students in the School, the management was constrained to inform to the Education Officer that one teacher in the School would be rendered surplus. The question was, who could be such teacher? As per the provisions of

Maharashtra Employees of Private Schools (Condition of Service) Regulation, Rules, 1981, the junior-most teacher would be declared as surplus teacher. The petitioner asserted that in the year 2003, he was not the junior-most teacher. He annexed with this petition a list of teachers. As per seniority, there were, in those days, 10 teachers in the school and the petitioner was 4th in seniority. The petitioner therefore, asserted that the decision of the authorities to declare him as surplus was arbitrary. The management as well as the State of Maharashtra did not oppose this petition. They did not state that the petitioner was junior-most teacher and therefore, we have no hesitation to assume that they admit all the facts stated in the petition.

3. In view of this, we have no difficulty to hold that the impugned order was illegal. The petition shall succeed in terms of prayer clause "C" Rule is made absolute in the above terms.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)

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