

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.500/2015

Kishor s/o Bhimrao Pawar
age 45 years, Occ-service
i.e. Asstt.Teacher
Madhyamik Vidyalaya, Gartad
Tq. & Dist.Dhule, R/o C/o
Madhyamik Vidyalaya, Gartad
Dhule, Tq. & Dist.Dhule

..PETITIONER

Versus

1] The State of Maharashtra
Through Director of Education
Pune.

2] Education Officer (Secondary)
Zilla Parishad Dhule

[Copy to be served on G.P.
High Court of Bombay
at Aurangabad]

3] Jawahar Shikshan Prasarak Mandal
Hire Bhavan, Dhule, Tq. & Dist.
Dhule, through its Secretary

4] Head Master
Madhyamik Vidyalaya, Gartad
Tq. & Dist.Dhule

..RESPONDENTS

...
Mr.S.S.Deshmukh,Adv. for petitioner
Mr.U.S.Mote, AGP for Respondent State.
...

**CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA,JJ.
DATE : 15th January, 2015.**

P.C. :

Mr.Deshmukh, learned counsel for the petitioner submits that the petitioner is transferred on promotion from an unaided post to another school on aided post run by the same management. The proposal seeking approval to the same is submitted by the Head Master of the school on 15/3/2014 (Exh.E), however, the Education Officer has not considered the said proposal nor has decided the said proposal. The learned counsel states that if by promotion the person is transferred from unaided to aided post in another school run by the same management, the same is permissible and there is no impediment to grant approval. The learned counsel relied on the judgment of the Division Bench of this Court at its principal seat at Bombay dated 12/9/12 in Writ Petition No.5258/12 with other connected Writ Petitions.

2] The learned AGP submits that in case the said proposal is pending, the same would be decided on its own merits.

3] We have considered submissions canvassed by learned counsel for petitioner and the judgment delivered by Division Bench of this court dated 12/9/12 in Writ Petition No.5258/12 with other Writ Petitions. The Division Bench in the said judgment has observed as under :

“4] In our view, there was no justification whatsoever for the Education Officer (Secondary) to grant his approval only as Shikshan Sevaks to the three petitioners. If the petitioners had been appointed as Assistant Teachers in the aided school by transfer from the unaided school on the basis of seniority, the approval ought to have been granted to them as Assistant Teachers. This is especially so having due regard to the fact that they were similarly circumstanced with other Teachers in whose case approval was granted as Assistant Teachers.”

4] The Education Officer as such is directed to decide the proposal submitted by Head Master (Exh.E) seeking approval to the appointment of the petitioner at transferred place in light of the judgment of this Court referred supra expeditiously and preferably within two months from the date of receipt of this order. The petitioner can present himself before Education Officer. Writ Petition accordingly disposed of. No costs.

V.L.ACHLIYA,J.

S.V.GANGAPURWALA,J.

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