

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH  
AT AURANGABAD**

**WRIT PETITION NO. 1966 OF 2015**

St. Francis De Sales Education Society,  
Aurangabad and others .. Petitioners

**Versus**

The State of Maharashtra and another .. Respondents

Shri Vikram S. Kadam, Advocate for Petitioners.  
Shri K. G. Patil, Addl..G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND  
V. K. JADHAV, JJ.**

**DATE : 07TH JULY, 2015.**

**PER COURT :**

. Mr. Kadam, the learned counsel for petitioners states that, the surplus teachers of the petitioner No. 4 school were directed to be absorbed with the petitioner No. 3 school vide order dated 06th December, 2014. The learned counsel submits that, in fact, there were no vacant posts in the petitioner No. 3 school. The Education Officer himself on 06.07.2013 had granted approval to the appointment of five teachers appointed in the petitioner No. 3 school. They were appointed in the year 2012 itself. These persons were directed to be absorbed in December 2014. The Education Officer did not take into consideration that at the relevant time there were no vacancies. The posts were already filled in, of which approval was granted by the Education Officer. The learned counsel submits that, salary of teaching staff of all the four schools is withheld, which is illegal.

2. Mr. Patil, the learned Additional Government Pleader submits that, there were vacancies in the petitioner No. 3 school. The petitioner Nos. 2 to 5 are run by the petitioner No. 1 society. The teachers were surplus in the petitioner No. 4 school. It was incumbent upon the petitioner No. 1 to absorb the teachers of the petitioner No. 4 school. The management cannot deny absorption of its own staff, when there are vacancies in its other schools.

3. We have considered the submissions canvassed by the learned counsel for respective parties. It appears that, when the impugned order is passed, the Education Officer has not considered the approvals granted to the teachers appointed in the year 2012. The approval is granted vide order dated 06.07.2013. The Education Officer is required to consider said approval granted also.

4. The staff is not receiving the salary. The salary of the staff cannot be withhold on the ground that other teachers are not absorbed. The staff is performing their duties. In the light of the above, we pass the following order.

5. The impugned order (Exhibit - E) is quashed and set aside. The respondents shall release salary of the teaching and non teaching staff of petitioner Nos. 2 to 5 schools. The Education Officer shall reconsider the staffing pattern, so also shall consider order of approval dated 06.07.2013 granting approval to the appointment of five teachers with the petitioner No. 3 school and thereafter take decision about the absorption of surplus teacher of the petitioner No. 4 school afresh. The

writ petition accordingly is disposed of. No costs.

6. The representation given by petitioners for sanction of additional staff may be considered by the authorities in accordance with law, policy, rules and norms.

**[ V. K. JADHAV, J. ]**

**[ S. V. GANGAPURWALA, J. ]**

bsb/July 15