

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3660 OF 2014

MEENAJODDIN NIYAZAHMED AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....

Advocate for Petitioners : Mr. V. G. Salgare
AGP for Respondent Nos. 1 and 2 : Mr. K. J. Ghute Patil
Advocate for Respondent Nos. 3 to 5 : Mr. S. B. Ghatol Patil

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

DATED : 8th JULY, 2015

PER COURT :-

1. Mr. Salgare, the learned counsel for the petitioners states that the petitioners were initially employees of a private grant-in-aid school. They were declared surplus. They are temporarily absorbed in Zilla Parishad schools. The request of the petitioners is that they should be permanently absorbed in Zilla Parishad schools. There are no vacancies available with the private aided schools. The learned counsel further submits that even respondent No. 4 had moved proposal with the Government for permanently absorbing the petitioners submitting that there are 33 posts of Urdu medium primary teachers vacant with them. The petitioners are the teachers of primary School.

2. Mr. Ghatol Patil, learned counsel for respondent No. 4 submits that in fact, the petitioners were absorbed temporarily, but there are vacancies available with the private aided schools. They have to be sent to the private aided schools.

3. The provisions of law is clear that if an employee working with a private aided school is declared surplus, he has to be absorbed in another private aided school and if no vacancy is available with another private aided schools, then to be absorbed with Zilla Parishad school. First they will have to be absorbed in private aided school and then only absorption with Zilla Parishad schools would be considered in view of Rules 26 and 27 of the M.E.P.S. Rules.

4. Any how, it is for the authorities to consider the said aspect as to the availability of vacancy in private aided schools or otherwise. It appears that the Chief Executive Officer, Zilla Parishad, Nanded i.e. respondent No. 4 has forwarded a proposal with respondent No. 1 on 27.01.2014 regarding absorption of the surplus teachers from the private aided schools. It is for the authorities to consider all the *pros and cons* and the availability of vacancies in private aided schools and take decision thereupon.

5. Respondent No. 1 shall take decision on the proposal

submitted by respondent No. 4 (Exh. "F" page 44) expeditiously and preferably within a period of six (06) months. The learned AGP shall communicate this order to respondent No. 1. Till the decision is taken by respondent No. 1, the petitioners may not be disturbed.

6. Writ Petition stands disposed of with aforesaid observations and directions. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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