

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 4680 OF 2014
WITH CA/8030/2014 IN WP/4680/2014

SHRI. SARANGSWAMI SHIKSHAN PRASARAK MANDAL, PARBHANI
AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners/ Applicants : Mr. Chillarge Subhash S.

AGP for Respondents: Mr.S.S.Tope.

Advocate for Respondent No.4 : Mr. P.G. Rodge.

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CORAM : **S. V. GANGAPURWALA and**
V. L. ACHLIYA, JJ.

DATE : 10th February, 2015.

PER COURT:

1 The Petitioners assail the order passed by the Deputy Director of Education thereby directing the Petitioners to absorb present Respondent No.4.

2 According to Mr.Chillarge, learned counsel workload is not available with the Petitioner – Institution. Only 7 clock hours work is available and the Respondent No.4 can only be accommodated on clock hours basis. However, the Deputy Director of Education without considering the said aspect, has passed the order.

3 Mr.Rodge, learned counsel submits that the Education Officer after considering the availability of the workload has passed the impugned

order and directed the Petitioners to absorb Respondent No.4. The Petitioner – Institution is deliberately not putting forth the real position as to the availability of the workload. One Mr.Kattekar was promoted as supervisor. His 37 lectures are available. Even those who have not passed B.P.Ed. are allotted the work of physical education. The same is to deprive the Petitioner.

4 We had asked the learned AGP to get the present position. The learned AGP has received a communication dated 10th February, 2015, from the Education Officer (Secondary) stating that there are 7 clock hours work available for new B.P.Ed. teacher.

5 The order states that there are 37 posts sanctioned and 37 clock hours work available. However, details of the availability of the workload is not discussed by the Deputy Education Officer. The Education Officer has replied to the query put forth by the Court and has stated that there are only 7 clock hours workload available. Naturally, Respondent No.4 will have to be absorbed as per the availability of the workload.

6 There appears to be some variance between the impugned order passed and the say of the Education Officer.

7 It would be appropriate for the Deputy Director of Education to consider the total staffing pattern and the availability of the workload and then pass the appropriate order.

8 In the result, we pass the following order:

- I. The impugned order is quashed and set aside.
- II. The Deputy Director of Education shall after considering the staffing pattern as would be submitted by the respective parties, consider the availability of the workload and pass the orders.
- III. If the workload is available with the Petitioner – Institution, then the Respondent No.4 can be absorbed in the Petitioner – Institution.
- IV. In case, the workload is not available with the Petitioner – Institution, then the Deputy Director of Education shall pass further orders with regard to absorption of Respondent No.4 in some other recognized institution.
- V. This exercise shall be done, expeditiously, preferably within three months.
- VI. The parties shall appear before the Deputy Director of Education on 23rd February, 2015.
- VII. The Respondent No.4 can make a representation to the Education Officer/ Deputy Director of Education for payment of his salary which would also be considered by the Authorities, on its own merits, expeditiously, preferably within three months.
- VIII. Accordingly, the writ petition is disposed of with aforesaid observations and direction. No costs.

- IX. In view of disposal of the writ petition, there would be no impediment for the Authorities to disburse the salary of the Headmaster as is permissible in law.
- V. Civil Application No.8030 of 2014, also stands disposed of.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

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