

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

36 WRIT PETITION NO.8031 OF 2014

TANAJI NAGANATHRAO MANE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Dhage Vivek J.

Mr. DV Tele, AGP for Respondent - 1

Mr. Bondar U.B., Adv. For R/2

Mr. Patil Shashikiran N., Adv. For Resp.No.4.

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**CORAM : S.S.SHINDE &  
P.R.BORA, JJ.**

**DATE : 19<sup>th</sup> March, 2015.**

**PER COURT :**

1) Heard. A limited grievance raised in this petition by the petitioner is that, the impugned decision of Respondent No.2, declaring the petitioner as surplus teacher, is without ascertaining as to who are the teachers from backward class and whether the School has maintained the ratio of reservation. The sum and substance of grievance of the petitioner is, first the order of declaring the petitioner as surplus teacher is passed and thereafter reasons there for are assigned by the

Respondent/authorities.

2) The learned Counsel appearing for Respondent No.2 placed reliance on the reply filed by Respondent No.3, justifying the order passed by Respondent No.2. He submits that all the relevant aspects were taken into consideration and thereafter the order, declaring the petitioner as surplus teacher, is passed.

3) We have given careful consideration to the submissions advanced by the learned Counsel for the parties. We have also perused the grounds raised in the petition, annexures thereto and reply filed by the Education Officer. Upon perusal of the material placed on record, we find that the impugned order, declaring the petitioner as surplus teacher, was passed by the Education officer on 30.08.2014, and thereafter reasons are supplemented. As a matter of fact, the Education Officer ought to have ascertained the position of seniority in the school as also the fact as to whether the School has properly maintained roaster of reservation of the teachers from

backward class category and thereafter decision ought to have been taken. Further, even the petitioner is not heard before passing the impugned order. Since the order impugned in this petition drastically affects the rights of the petitioner, we deem it appropriate to direct the Education Officer to hear the petitioner; consider the relevant material and then take an appropriate decision in accordance with law as to whether the petitioner can be declared surplus or otherwise.

4) In this view of the matter, we pass following order, -

(i) The impugned order dated 30.08.2014 passed by Respondent No.2, declaring the petitioner as surplus teacher, is quashed and set aside;

(ii) The Education Officer is directed to take a decision in accordance with law as to whether the petitioner can be declared as surplus teacher or otherwise, on or before 30<sup>th</sup> May, 2015;

(iii) Till then, interim order passed by  
this Court shall remain in force.

**(P.R.BORA)**  
**JUDGE**

**(S.S.SHINDE)**  
**JUDGE**

bdv/