

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

**WRIT PETITION NO.9418 OF 2011
WITH
WRIT PETITION NO.850 OF 2012**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.S.B.Talekar, Mr.N.E.Deshmukh, advocates for the petitioners.
Mr.K.G.Patil, Addl. Govt. Pleader for the State.

**CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA, JJ.
Date : 02.02.2015.**

PER COURT :

1. Heard.
2. Writ Petition No.850/2012 is filed by the Management, challenging the order dated 25.9.2011, whereby directions are issued to absorb Respondent No.5 in the said petition.
3. The learned counsel for the petitioners and learned Addl. Govt. Pleader agree and admit that said Respondent No.5 now is already absorbed with the petitioner-institution and approval is also granted to his appointment and subsequently grants are also released. In light of that, grievance in the Writ Petition would not survive.

4. The petitioners in W.P.No.9418/2011 are challenging the order rejecting the proposal seeking approval to the appointment. This Court vide order dated 29.4.2014 had directed the Respondents to file a detail affidavit giving information of the total vacancies of the surplus teachers etc. declared from 2004 till date, however, the said order is not complied till date.

5. Mr.Talekar, learned counsel submits that three teachers who were there with the original Management did not join when the School was transferred to the Respondent-Management and thereafter, the petitioners were appointed in June 2009. The order directing the Respondent-Management to absorb surplus teachers was issued in September 2011 i.e. after the petitioners are appointed. It is also not a matter of dispute that subsequently one of the surplus teacher who was directed to be absorbed has been absorbed by the Respondent-Management. Considering the aforesaid aspect of the matter, we pass the following order :

a) The order rejecting the proposal seeking approval to the appointment of petitioners is set aside. The Respondent-authority shall consider the proposal seeking approval to the appointment of the petitioners afresh considering all the relevant aspects and the same shall not be rejected only on the ground that the surplus teachers were not absorbed. The Respondent-authority is entitled to consider the staffing pattern and the roster as applicable when the

petitioners were appointed and the Management may represent themselves before the authority while deciding the proposal afresh. The said exercise be done expeditiously, preferably within six (6) months. In case the authority decides the proposal seeking approval to the appointment of petitioners favourably then shall pass further orders with regard to the other consequential benefits, such as salary etc.

b) The Writ Petitions are disposed of. No costs.

(V . L . ACHLIYA, J .)

(S . V . GANGAPURWALA, J .)

Dt..02.02.2015.
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