

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

WRIT PETITION NO.543 OF 2015

Panchasheel Shikshan Prasarak Manadal
Sanchalit Sambhaji Vidya Mandir,
Hingoli, Tq. & Dist. Hingoli,
Sou. Jayshri w/o Dharmaji Ingole,
Age: 70 Years, Occu. Secretary,
R/o. Pensionpura, Katke Galli,
Hingoli, Tq. & Dist. Hingoli

PETITIONER

VERSUS

- 1] The State of Maharashtra,
Through the Principal Secretary
[Secondary], Education Department,
Mantralaya, Mumbai – 400 032
[Copy to be served through Govt.
Pleader, High Court of Judicature of
Bombay, Bench at Aurangabad]
- 2] The Deputy Director of Education,
Aurangabad Region, Aurangabad
- 3] The Education Officer [Secondary],
Zilla Parishad, Hingoli,
Tq. & Dist. Hingoli
- 4] Smt. Archana Bhagwan Dhandre,
Age: 42 Years, Occu. Asstt. Teacher,
[Primary],
R/o. C/o. Gandhi Vidyamandir,
Maldhamani, Tq. & Dist. Hingoli

RESPONDENTS

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Mr. P.R.Chandak, Advocate for the Petitioner
Mrs. S.A.Dhumal, AGP for the Respondent Nos. 1 to 3
Mr. R.J.Godbole, Advocate for the Respondent No.4.

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**CORAM: S.S.SHINDE &
A.M.BADAR, JJ.**

Date: 29th September, 2015

PER COURT: [Per S.S.Shinde, J.]:

1] This Petition takes an exception to the order dated 24.11.2014 passed by the respondent No.3 Education Officer [Secondary], Zilla Parishad, Hingoli.

Briefly disclosed facts leading for filing the present Writ Petition are as under:

2] It is the case of the petitioner that, the petitioner is a registered Society, and running the School under the name and styled as '*Panchasheel Shikshan Prasarak Mandal Sanchalit, Sambhaji Vidya Mandir*' at Hingoli, Taluka and District Hingoli, and the petitioner Society is represented through its Joint Secretary. It is further the case of the petitioner that, the Government of Maharashtra passed Circular No.13010[782/10] Pri.Edu.-3 dated 15th October, 2010, in which it is clearly mentioned that, as per 'Bindu Namavali' on the reserved post of SC, no person from other category will be appointed.

3] It is further the case of the petitioner that, the Education Officer has granted staff approval for the academic year 2013-14. As per the staff approval, there are in all total 11 posts of teaching staff came to be

sanctioned for the school of petitioner and the Education Officer has not sanctioned staff approval for the current academic year 2014-15 to the petitioner school. It is further the case of the petitioner that, already there are 12 teachers, serving with the petitioner School, and out of it, one Assistant Teacher namely Shri P.V.Wankhede has been retired from his service on 30.06.2014, he is from SC category, and therefore, one post of SC category has become vacant, but the Education Officer has not granted approval to the petitioner school, and the petitioner School has not been completed back log till today.

4] It is further the case of the petitioner that, the respondent No.3 issued order to join the respondent No.4 in the School run by the petitioner, vide its order dated 24.11.2014. It is further the case of the petitioner that, on 06.12.2014, the petitioner Society replied the said order to the respondent No.3. It is further the case of the petitioner that, as per the Maharashtra Employees of Private School [Conditions of Service] Rules, 1981, the surplus permanent teacher is to be accommodated in any other school on the same subject post, and not on any other subject post. In the present case, the respondent No.4 is a D.Ed., and she is

not permanent teacher, there is no permanent approval granted by the Education Officer to the post of respondent No.4, and she was serving in another School and further there is no vacant post in the School of the petitioner.

5] Therefore, the petitioner is challenging the order dated 24.11.2014 passed by the respondent No.3 Education Officer [Secondary], Zilla Parishad, Hingoli. Hence this Writ Petition.

6] The learned counsel appearing for the petitioner invited our attention to the pleadings in the Petition, and the grounds taken therein and submits that, for the reasons which are disclosed in the memo of Petition, the impugned order deserves to be set aside.

7] On the other hand, the learned AGP appearing for the Respondent Nos.1 to 3, and the learned counsel appearing for the respondent No.4, submit that, the impugned order is acted upon, and therefore, the Petition deserves to be rejected.

8] We have given anxious consideration to the rival submissions of the parties. With able assistance of the

learned counsel appearing for the parties, we have carefully perused the pleadings in the Petition, and annexure thereto. Upon careful perusal of the facts disclosed in the Petition, adjudication of the said facts would lead to the adjudication of disputed questions of fact. It is not in dispute that, in pursuant to the impugned order passed by the respondent No.3, the respondent No.4 has joined as an Assistant Teacher in the petitioner's school.

9] In that view of the matter, in our opinion, it would be appropriate for the petitioner to file comprehensive application / representation with the respondent No.2, disclosing all relevant facts, and upon filing such application / representation the respondent No.2 shall look into all aspects of the matter, and take appropriate decision in accordance with law as expeditiously as possible, preferably within 3 months from filing such application / representation. The respondent No.2 shall also take into consideration whether the respondent No.3 has adhered to the seniority of surplus teacher maintained before issuing direction to the petitioner to absorb the respondent No.4.

10] With the above observations, since Petition raises disputed questions of fact, same stands rejected.

Sd/-
[A.M.BADAR]
JUDGE

Sd/-
[S.S.SHINDE]
JUDGE

DDC