

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3095 OF 2013

(Dilip s/o Shriram Kokode vs. The Deputy Director of Education, Nagpur Division, Nagpur & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
S.B. SHUKRE, JJ.
MARCH 31, 2015.**

Heard Shri Srivastava, learned counsel for the petitioner, Shri Deshpande, learned AGP for respondent Nos. 1 & 2 and Shri Parchure, learned counsel for respondent No. 5.

The question is, whether the petitioner should have been absorbed by Respondent No. 3 when an earlier School closed down in the year 2008-09 was transferred to it. The impugned order dated 03.10.2012 only records that as the management did not submit proposal of the petitioner for approval, Education department could not consider it.

After hearing the learned counsel, we find that the question is whether the petitioner was working with the old management till the closure of School. The old management is not party before this Court. Respondent No. 5, who has been absorbed by new management, has filed a reply alleging that the petitioner had submitted resignation on 29.04.2006.

We cannot go into any disputed question of facts

in this litigation as old management is not joined as a party respondent before this Court. After the petitioner succeeds in establishing his contention that he was continuing with the old management till the closure of school, his entitlement to absorption in accordance with law can thereafter be evaluated. A perusal of impugned order does not show any such consideration. The material on record also does not establish that the petitioner had relationship as employee with his earlier employer till the closure of School.

Shri Srivastava, learned counsel, however, at this stage submits that the petitioner has got documents which show that he was continuing with the old management till the closure of School.

In this situation, keeping all rival contentions open, we grant liberty to the petitioner to make appropriate representation pointing out all these facts to Respondent No. 2 – Education Officer (Secondary), Zilla Parishad, Chandrapur. If such a representation is made within a period of three weeks from today, Respondent No. 2 shall, after giving necessary opportunity to the other side, decide the same within next three months.

Writ Petition is disposed of accordingly. However, there shall be no orders as to costs.

JUDGE

JUDGE