

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4683/2015

(Shri Santosh Namdeo Pathrabe vs. Jeevanvikas Education Society, Nagpur and others)

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

Court's or Judge's order

Mr. B.G. Kulkarni, Advocate for the petitioner
 Mr. S.P. Bhandarkar, Advocate for Respondent Nos. 1, 2 and 4
 Miss Tajwar Khan, Assistant Govt. Pleader for Respondent No.3

**CORAM : SMT. VASANTI A. NAIK &
 A.I.S.CHEEMA, JJ.**

DATED : 28th September, 2015.

Heard.

By this petition, the petitioner has challenged the order of the respondent-Management, dated 29.7.2015, transferring the petitioner from one School of the Management, to the other.

We had found on one of the earlier dates of hearing, that the transfer is bad in law and the same could not have been effected after the petitioner was declared surplus. Since the petitioner had shown his willingness to work in any other School in the District, we had directed the learned Assistant Government Pleader to make a statement whether there was any vacancy in the post of Peon, in the District.

The learned Assistant Government Pleader states

on instructions from the Education Officer (Secondary), Zilla Parishad, Nagpur (communication dated 28.9.2015 addressed to the learned Assistant Government Pleader) that the petitioner could be absorbed in Smt. Dadibai Deshmukh Hindu Girls' School, Mahal, Nagpur.

In view of the statement made by the learned Assistant Government Pleader and since we find that the transfer order is bad in law, the learned counsel for the petitioner states that the petitioner is ready to join the services in Smt. Dadibai Deshmukh Hindu Girls' School, Mahal, Nagpur.

In view of the aforesaid statement, the cause for filing the Writ Petition would not survive. We clarify that in a given case, the Education Officer may not be directed by this Court to consider the vacancies in the District, even if desired by the employee and the Management, as the absorption has to be made in accordance with the position and standing of the employee in the waiting list.

If the petitioner has not received the salary for certain period after he was declared surplus, the respondent-Education Officer should pay the same to the petitioner as early as possible and, positively, within a period of two months.

With the aforesaid observations, the Writ Petition is disposed of with no order as to costs.

JUDGE

JUDGE