

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

Writ Petition No.6292 of 2013

(Smt. Shailaja Rajeshwar Nalgundwar .vs. Dy. Director of Education, Nagpur and Ors.)

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

Court's or Judge's orders

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.

DATE : 21st JANUARY, 2015.

Heard Mr.G.N.Khanzode, learned Counsel for the petitioner, Mr.A.S.Fulzele, learned A.G.P. for respondent nos. 1 and 2 and Mr.Raisuddin, learned Counsel for respondent nos. 3 and 4.

The petitioner – an approved Assistant teacher, is claiming absorption and also salary for the period prior to derecognition. It is not in dispute that the school has been derecognized in the academic Session 2012-13 vide order dt.16.1.2013.

Staff justification dt.23.12.2011 for the Academic year 2010-11 shows the sanctioned strength of the teachers to be four. In the year 2011-12, it has come down to three. In the subsequent year, as per staff justification report dt.6.8.2012, it has come down to one. The petitioner submits that, when it came down to one, she was rendered surplus.

Effort of Mr.G.N.Khanzode, learned Counsel for the petitioner is to demonstrate that the petitioner was rendered surplus in August itself, while order of

derecognition has been passed about five months thereafter.

The learned A.G.P. has submitted that it is for the management to declare the petitioner as surplus. Those steps have not been taken. He further contends that though there was approval in favour of the petitioner, staff justification report shows that the teachers were rendered surplus. Whether there were other teachers and therefore, the petitioner could have been declared surplus or then the other teachers could have been declared surplus, according to the learned A.G.P., therefore, are disputed questions. He points out that, as yet neither the petitioner nor respondent nos. 3 and 4 have pointed out that any of their surplus staff has been absorbed elsewhere by the department. Thus, the disputed questions arise which may be resolved only after perusal of record.

Mr.Raisuddin, learned Counsel for respondent nos. 3 and 4 submits that the respondents have not acquiesced in derecognition order and challenge to it is still pending. However, he fairly states that there is no stay order granted in the appeal.

In this situation, we direct the petitioner as also respondent nos. 3 and 4 to appear before respondent no.2 on 11.2.2015. The petitioner as also respondent nos. 3 and 4 shall make available necessary records for perusal of respondent no.2/Education Officer.

The Education Officer shall try to ascertain whether the petitioner or anybody else was rendered surplus on 6.8.2012 and therefore, needed to be absorbed in accordance with law. If any salary is found to be not paid, entitlement of person for salary shall also be looked into by

the Education Officer simultaneously. Decision in this respect shall be taken within one month from the date the parties appear.

Leaving all contentions open and with these directions, we dispose of the Writ Petition. No costs.

Steno copy of this order be supplied to the learned Counsel for the respective parties.

JUDGE

JUDGE