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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR.

WRIT PETITION No. 6853 OF 2014.

Sangita Prabhakar Rao Upadhye

-Vrs.-

State of Maharashtra, thr. its Principal Secretary, Department of School Education,
Mantralaya, Mumbai and 3 others.

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

Court's or Judge's orders.

Mr. R.B. Dhore, counsel for petitioner.

Mr. Ukey, AGP for respondent nos. 1 to 3.

Mr. Gaikwad, counsel for respondent no.4.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : 21st OCTOBER, 2015

Heard advocate Dhore for petitioner, AGP for respondent nos. 1 to 3 and advocate Gaikwad for respondent no.4.

The affidavit filed by petitioner stated to be dated 20.10.2015 is not available on record. Advocate Gaikwad states that he has not received copy of that affidavit.

However, after hearing respective counsel, we find that admittedly petitioner was declared surplus some time in 2013 because of de-recognition of school on account of reduction in number of students. Thereafter she was directed to be absorbed in another school vide order dated 16.2.2015, but it could not materialized.

In the meanwhile petitioner learnt that a vacancy is available in the school run by the earlier management. Shri

Dhore submits that as vacancy is available with the management, the earlier management must be directed to absorb petitioner. He stated that, accordingly Education Officer has asked that management to allow the petitioner to join the post.

Advocate Gaikwad points out that vacancy is available in high school and petitioner who is holding H.S.C. D.Ed. qualification cannot be allowed to join against that post. He further points out that though an employee has retired, till the staff approval is verified and sanctioned, the contention that there is vacancy cannot be accepted.

According to Advocate Dhore, along with additional affidavit filed on 20.10.2015, he has placed documents which show prima facie that vacancy is available for teaching 6th to 8th standard.

We do not wish to go into any disputed question at this stage. Admittedly, the petitioner is declared surplus and she needs to be absorbed. We, therefore, direct petitioner to make suitable representation pointing out availability of post for teaching standard 6th to 8th. If the representation is made by petitioner within two weeks from today, the respondent no. 4 shall consider it and take suitable decision within period of six weeks thereafter.

With these directions, we dispose of this petition.
No costs.

JUDGE

JUDGE