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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.769/2015

Shivaji Sitaram Ghadge.

...Petitioner..

Versus

The State of Maharashtra & others.

...Respondents...

.....

Shri S.V. Natu, Advocate for petitioner.

Smt.M.A. Deshpande, AGP for respondent nos.

.....

**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 15.12.2016

ORDER :

1] Mr.S.V. Natu, learned counsel for the petitioner submits that the petitioner has been declared surplus as per the impugned communication. The petitioner is working as a part time Librarian. The petitioner cannot be declared as a surplus as the work load is available with the parent institution. Even the institution has communicated this fact to the Education Officer on 23.10.2013 but the same is not taken into consideration. The learned counsel submits that though the petitioner

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was directed to be absorbed with other institution, the institution where the petitioner was directed to be absorbed did not accommodate the petitioner and thereafter he was again asked to join the parent institution. The salary is also paid to the petitioner by the respondent – authorities. As such, the impugned communication be quashed and set aside.

2] Learned AGP states that as per the relevant Government resolution, the decision has been taken. As per the Roster and the seniority, the petitioner stands to be declared as surplus.

3] It does not appear that while passing the order dated 17.12.2014, the communication dated 23.10.2013 by the institution was considered by the Education Officer.

4] According to the petitioner, the petitioner is receiving the salary also and working with the parent institution.

5] In the light of above, the impugned communication is quashed and set aside. The authority i.e. The respondent no.2 shall reconsider the case of the petitioner and take decision afresh as to whether the petitioner is required to be declared surplus or otherwise. The said order be

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passed after hearing the petitioner and the institution. The parties shall appear before the Education Officer on 9.1.2017. The Education Officer shall thereafter take decision expeditiously. Writ petition is accordingly disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)