

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2490 OF 2015

Mr. Prabhakar s/o Baburao Pawar ... **Petitioner**
Age 40 years, Occu: Nil
R/o Takli, Tq. Chalisgaon,
Dist. Jalgaon

VERSUS

1. The State of Maharashtra through its Secretary, School Education Department, Mantralaya, Mumbai
2. The Director of Social Welfare, Maharashtra State, Pune.
3. The Divisional Social Welfare Officer, Nasik Division, Nasik.
4. The District Social Welfare Officer, Jalgaon.
5. Janit Shikshan Prasarak Mandal, ... Respondents.
Jalgaon, Through its President at Primary Ashram School, Dand-Pimpri, Tq. Chalisgaon, Dist. Jalgaon.

Mr. S. R. Barlinge, Advocate for the petitioner,
Mrs. P. V. Diggikar, AGP for the respondents 1 to 4
Mr. P. B. Patil, h/for Mr. Ujwal Patil, advocate for
respondent No.5

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

DATE : 28th November, 2016

JUDGMENT:

1. Heard the learned counsel for the parties.

2. Rule. Rule made returnable forthwith. With consent of parties, the petition is taken up for final disposal.

3. Mr. Barlinge, the learned counsel for the petitioner submits that the petitioner was appointed as Assistant Teacher in the year 1994 on grant-in-aid basis. The petitioner's services were continued up to the year 2004. In the year 2005, the school, where the petitioner was working stood de-recognized. The learned counsel submits that the similarly situated employees had filed writ petition before this court. Writ petition is allowed and those Assistant Teachers have been absorbed. The learned counsel submits that the petitioner is similarly situated. Only because the petitioner had not filed any writ petition, the case of the petitioner is not considered. According to the learned counsel, the school, where the petitioner was working is again recognized in the year 2010..

4. Mr. Patil, the learned counsel for respondent no.5 accepts that the petitioner was appointed in the year 1999 and has worked up to 2003 on grant-in-aid basis and in 2004 the school was de-recognized. According to the learned counsel, in 2010, after the

school was again recognized, the school has absorbed the surplus candidates as was directed by the Divisional Social welfare Officer. The learned counsel submits that at present there is no vacancy in the respondent school.

5. The learned AGP states that name of the petitioner is not included in the list of surplus candidates as the appointment of the petitioner was on temporary basis.

6. We have considered the submissions.

7. It is not disputed by either of the parties that the appointment of the petitioner was on grant-in-aid basis that the school where the petitioner was working stood de-recognized. The petitioner would stand retrenched under under Rule 25A of the MEPS Rules and if the de-recognition of the school is not on account of lapse on the part of the employee, the employee can be declared as surplus and absorbed accordingly. As other teachers of the said school have been absorbed, it can be said that the de-recognition of the school was not on account of lapse on the part of the employees.

8. Considering the above, respondent No.4 shall place the petitioner in the list of surplus candidates and shall absorb the petitioner as per his turn and the petitioner will be paid salary from the date of his absorption.

9. Rule is made absolute accordingly. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC