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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.3300/2015

Ravinder Ramulu Komati.

...Petitioner..

Versus

The State of Maharashtra & others.

...Respondents...

.....

Shri A.N. Nagargoje, Advocate for petitioner.

Smt.M.A. Deshpande, AGP for respondent nos.1 & 2.

Smt.Yogita Kshirsagar, Advocate for respondent nos.3 & 4.

Shri R.G. Shirsat, Advocate for respondent no.5.

Shri S.R. Chowkidar, Advocate for respondent no.6.

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

DATE: 20.09.2016

ORDER :

1] Learned counsel for the petitioner states that on or about 21.2.2005, illegally the petitioner was declared as surplus, however, that order was canceled on 29.7.2005. Since the petitioner is working with the respondent no.5 - institution. The name of the petitioner is also shown in the seniority list at Sr.No.2. Now the petitioner is a senior most teacher in the said school. The claim of

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the petitioner for the post of Head Master is required to be considered. The same is not considered. In fact, the order of declaring the petitioner surplus in February, 2005,. itself was illegal. The petitioner was appointed from the reserved category. The petitioner being the senior most could not have been declared surplus. The Assistant teachers junior to the petitioner, who were teaching Telgu subject were retained. Realizing this in July, 2005, the said order of declaring the petitioner surplus was canceled. According to the learned counsel, even in the latest seniority list, the petitioner is shown as senior most teacher.

2] Learned counsel appearing for the respondent nos.5 and 6 submit that the petitioner was declared surplus in 2005. He was relieved immediately. In 2012, the Education Officer directed the institution to absorb the petitioner in the respondent no.5 - school. Since 2005 to 2012, the petitioner was not a teacher on the roll of the respondent no.5. According to them, even now the petitioner is not on the roll of the respondent - school. The petitioner cannot be a senior most teacher. There is no post available for teacher in Telgu medium and the

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petitioner was appointed to teach Telgu subject.

3] Learned counsel for the respondent no.4 submits that the petitioner was declared surplus in the year 2005 and was directed to be absorbed in another school. The school where the petitioner was directed to be absorbed did not accommodate the petitioner. The problem arose with regard to the payment of salary and as such the order was passed in February, 2005, for drawing his salary from the parent school. In 2012, the order is passed directing the respondent no.5 to absorb the petitioner.

4] We have considered the submissions.

5] The dispute appears to be about the seniority and with regard to the declaration of the petitioner being a surplus teacher and subsequent absorption. There are orders appearing on record declaring the petitioner surplus on 21.2.2005 so also asking the respondent no.5 to draw the salary of the petitioner from the original school dated 29.7.2005, so also the order dated 26.9.2012 directing one Andhra Samiti Telgu Medium Primary School, Nanded, to absorb the petitioner. Thereafter, the order dated 18.10.2012 directing the respondent no.5 to absorb

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the petitioner.

6] Considering various orders, as detailed above, the petitioner is claiming the post of Head Master. According to the Education Officer, various orders are passed by him and as such the petitioner is not entitled for the post of Head Master, dispute pertains to declaration of the petitioner as a surplus candidate, subsequent to absorption orders.

7] Considering the aforesaid position, it would be appropriate for the Deputy Director of Education i.e. superior authority to the Education Officer, to take decision in respect of the said dispute.

8] Considering the above, we pass the following order.

O R D E R

i] The petitioner shall approach the Deputy Director of Education, Latur Division, Latur, with regard to the grievance raised in the petition. The Deputy Director of Education, on receipt of the said application from the petitioner and after hearing all the parties concerned, shall take decision upon the status of the petitioner as an employee of the

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respondent no.5 so also with regard to the claim of seniority as raised by the petitioner, expeditiously in accordance with law and preferably within a period of eight months from the date of receipt of the application.

ii] All the contentions of respective parties are kept upon.

iii] Writ petition is disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)