

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 7379 OF 2015**

VINOD ZERBA SURYAWANSHI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Vibhute Sunil M.

AGP for Respondent/State : Mr. U.S. Badakh

Advocate for Respondent no.4 : Mr. Bhavthankar Vivek
Vasantrao

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CORAM : S.S. SHINDE & SANGITRAO S. PATIL, JJ.**Dated: April 11, 2016**

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PER COURT :-

Rule. Rule made returnable forthwith
and by consent of the parties, heard finally.

2. This Petition takes exception to the
impugned order dated 8th May, 2015 passed by
Respondent No.3 - Education Officer,
rejecting the proposal of the petitioner for
permanent approval to his appointment on
compassionate ground.

3. The learned counsel appearing for
the petitioner invited our attention to the
various documents placed on record and
submits that, though the petitioner and the
concerned institution have pursued the

Education Officer, seeking permanent approval to the services of the petitioner, till the impugned order was passed, the Education Officer did not take any decision on the applications/representations filed by the petitioner. It is submitted that, first time on 8th May, 2015, the Education Officer addressed the letter to the Respondent - school stating therein that, in view of the staffing pattern for the academic year 2013-2014, no approval can be granted to the services of the petitioner. According to the learned counsel appearing for the petitioner, since the petitioner was appointed in the year 2006, the Education Officer should have kept in view the position of vacancy available at the prevailing date and time. He, therefore, submits that, the impugned order deserves to be quashed and set aside.

4. The learned counsel appearing for the Respondent - school also joined the prayer of the petitioner.

5. The learned A.G.P. appearing for the Respondent/State, relying upon the reply filed by Respondent No.3, submits that, the Petition may be rejected.

6. We have given careful consideration to the submissions advanced by the learned counsel appearing for the petitioner, learned counsel appearing for Respondent nos. 4 and 5 and the learned A.G.P. appearing for the Respondent/State.

7. It appear that, the petitioner was appointed in the year 2006 on compassionate ground. Upon perusal of the documents placed on record, it further appears that, the petitioner and the Respondent – School have taken steps by way of filing various applications/representations, so as to get approval to the services of the petitioner. However, till the impugned order is passed, the Education Officer did not take any decision on the said applications/representation. In fact, not taking decision for considerable period can be treated as one of the additional ground for considering the case of the petitioner for grant of permanent approval. The Respondent – Education Officer ought to have considered the staffing pattern of the relevant time, when the petitioner was appointed. In short, the Education Officer ought to have considered the position of

vacancies as per the staffing pattern in the year 2005-2006, when the petitioner was appointed.

8. In that view of the matter, the impugned communication/order is quashed and set aside. The Education Officer (Secondary), Zilla Parishad, Latur is directed to reconsider the case of the petitioner for grant of permanent approval, keeping in view the staffing pattern for the relevant academic year 2005-2006, and take appropriate decision, as expeditiously as possible, and preferably within six weeks from today and communicate the said decision to the petitioner as well as Respondent Nos. 4 and 5.

9. The Petition is allowed to the above extent. Rule made absolute accordingly.

10. The parties to act upon an authenticated copy of this order.

(SANGITRAO S. PATIL, J.) (S.S. SHINDE, J.)