

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 9675 of 2015

District : Jalgaon

Yogesh s/o. Prakash Sonwane,
Age : 27 years,
Occupation : Service,
R/o. Ramnarayan Thepde Nagar,
New Court, Pachora,
Taluka : Pachora,
District : Jalgaon.

.. Petitioner.

versus

1. Director of Education (Primary),
Maharashtra State, Pune - 1.
2. Deputy Director of Education,
Nashik Division, Nashik.
3. Education Officer (Primary),
Zilla Parishad, Jalgaon.
District : Jalgaon.
4. Pachora Taluka Co-operative
Education Society, Pachora,
Taluka : Pachora,
District : Jalgaon,
through its Chairman.
5. Supdu Bahadu Patil
Prathamik Vidya Mandir,
Pachora, Taluka : Pachora,
District : Jalgaon,
Through its Head Master.

.. Respondents.

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Mr. Mahesh S. Deshmukh, Advocate, for the petitioner.

Mr. S.B. Yawalkar, Addl. Government Pleader, for respondent nos.1 and 2.

Mr. M.S. Sonawane, Advocate, for respondent no.3.

Mr. S.B. Choudhari, Advocate, for respondent nos.4 and 5.

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**CORAM : S.S. SHINDE &
SANGITRAO S. PATIL, JJ.**

DATE : 27TH APRIL 2016

PER COURT :

Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respective respondents.

2. The learned Counsel appearing for the petitioner submits that the proposal for approval to the appointment of the petitioner on compassionate ground is pending with respondent no.2 and the decision, as yet, has not been taken by respondent no.2. He has further invited our attention to the judgment delivered by this Court in Writ Petition No. 5732 of 2014 [*Ujjwala w/o. Madhukar Kolhe Vs. Sahyadri Bahujan Vidya Prasarak Samaj, Sangamner & others*] on 9th February 2015 and in particular, paras 5 and 6 thereof. He submits that in case of appointment on compassionate ground, the ground of

non-observing absorption of surplus Teachers cannot be raised and, therefore, submits that respondent no.2 may be directed to accord approval to the appointment of the petitioner.

3. The learned Addl. Government Pleader appearing for respondent nos.1 & 2 and the learned Counsel appearing for respondent no.3 vehemently opposed the prayer on the ground that the appointment of the petitioner is during the ban by the Government of Maharashtra for new recruitment.

4. The fact that the petitioner has been appointed on compassionate ground is not in dispute. The learned Counsel for the petitioner is right in contending that in similar fact situation, this Court in Writ Petition No. 5732 of 2014 (supra) decided on 9th February 2015, has taken a view that the grounds of absorption of surplus Teachers and general ban on recruitment cannot be applied in case of appointment on compassionate ground.

5. In that view of the matter, we direct respondent no.2 i.e. Deputy Director of Education to take decision on the proposal for approval to the appointment of the petitioner, without raising the ground that there was general ban for recruitment or the concerned Institution was supposed to absorb surplus Teachers, however, subject to verification of

other aspects, if any, within a period of six weeks from today and communicate the said decision to respondent nos.4 and 5.

6. With the above directions, the Writ Petition is disposed of.

7. Parties to act upon an authenticated copy of this order.

(SANGITRAO S. PATIL)
JUDGE

(S.S. SHINDE)
JUDGE

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