

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

WRIT PETITION NO. 9368 OF 2015

Satish Ramrao Kore

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Manish P. Tripathi, Advocate for the Petitioner.

Ms. Vaishali N. Patil, AG.P. for Respondent Nos. 1 and 2.

Mrs. Yogita Kshirsagar, Advocate for the Respondent No. 3.

Shri G. S. Shembole, Advocate for Respondent Nos. 4 and 5.

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

DATE : 19TH DECEMBER, 2016.

PER COURT :

. The learned counsel for the petitioner states that, the petitioner was appointed as Shikshan Sevak with the respondent No. 5 institution on 04.04.2012. The appointment of the petitioner was also approved vide order dated 23.09.2012. The said approval was for a period of three years with effect from 04.04.2012. The learned counsel submits that, on 05th August, 2015, the Education Officer (Primary) directed the institution that the services of the petitioner should be brought to an end and report to that effect be submitted. The learned counsel submits that, said action is not in consonance with the

Government Resolution 27.05.2016. The learned counsel submits that, the petitioner had completed three years of service and as such was deemed assistant teacher. The petitioner could have been declared as surplus, as other teachers were declared surplus. The learned counsel submits that, while considering that, the petitioner has become surplus, the staffing pattern of the year 2013-2014 was considered, whereas now in the staffing pattern of the year 2015-2016 one post is increased. The petitioner can be accommodated in the said school. The petitioner belongs to reserved category that is Other Backward Class.

2. The learned counsel for the respondent/institution submits that, one post of Assistant Teacher has increased in the current year. He does not dispute appointment of the petitioner with effect from 04th April, 2012 and approval given to his appointment and that petitioner has worked from 04th April, 2015.

3. The learned counsel for the Education Officer submits that, considering staffing pattern of the year 2013-2014, the Education Officer has rightly passed the order. The petitioner could not have been declared surplus teacher and his services were required to be put to an end as at the relevant time he had not completed three years as assistant teacher.

4. The fact that, the petitioner has worked continuously for a period of three years and more is borne out from the record itself. Prior to the impugned order passed by the Education Officer on 05th August, 2015, the petitioner had already completed three years of service. In that case G. R. dated 27th May, 2016 would inure to the benefit of the petitioner.

5. In the light of the above, the impugned order is quashed and set aside. The petitioner shall be placed in the list of surplus candidates and orders of absorption shall be passed as per his turn. The writ petition accordingly is disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]