IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.9367/2015

Swati Laxman Patil.
...Petitioner..

Versus

The State of Maharashtra & others.
...Respondents...

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Miss.Surekha Mahajan, Advocate for petitioner.
Smt.M.A. Deshpande, AGP for respondent no.1.
Shri Vijay Sharma, Advocate for respondent no.2.
Respondent no.3 served.
Shri Kalyan V. Patil, Advocate for respondent nos.4 & 5.

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

DATE: 15.12.2016

ORDER :

1] Present petition is the result of the chaos created by the Education Officer initially by passing the order dated 11.7.2013 directing absorption of the petitioner in another institution and subsequently by passing the order dated 28.7.2014 directing the management of the respondent – institution to absorb the petitioner at

their end.

2] We have considered the submissions made by Miss.Surekha Mahajan, learned counsel for the petitioner, Mr.Chavan, learned counsel for the respondent no.2 and Mr.Patil, learned counsel for the respondent nos.4 & 5.

3] The petitioner herein is appointed as a Shikshan Sevak on 23.1.2012 with Padmalaya Higher Primary School, Erandol. It appears that after about a year and half, in view of the staffing pattern of the Padmalaya Higher Primary School, Erandol, the post was not available and the petitioner became surplus. The Education Officer directed that the petitioner be absorbed with Khadke Primary School, Jalgaon. The petitioner was not allowed to join at the said school on the ground that the vacancy did not exist with the said school. Thereafter, the Education Officer again directed the respondent – institution to accommodate the petitioner at its end. The petitioner was transferred to Rajiv Gandhi Primary School run by the same management, which runs Padmalaya Higher Primary School. The petitioner joined at the transferred place and as per the management, the petitioner worked upto 23.8.2014 whereas according to the

petitioner, the petitioner worked in the said school upto September, 2014, however, subsequently was not given any work on the ground that the post did not exist.

3] At the first place, the Education Officer could not have passed the order directing absorption of the petitioner in another school only after completion of one and half years service as a Shikshan Sevak. Be that as it may. The said order was already passed, however, the school where the petitioner was transferred did not absorb the petitioner on the ground that the vacancy did not exist. The Education Officer again by another order directed the respondent no.3 to absorb the petitioner at its end. Complying with the said direction, the respondent no.3 transferred the petitioner to the respondent no.5 – school. In that school also, as per the staffing pattern, the post was not vacant. If the Education Officer would not have intervene3d in the matter, the present state of affairs would not have arisen. The petitioner, it appears, has completed 30 months now.

4] Considering the earlier orders passed, the equities now will have to be adjusted. In the light of that, we

pass the following order.

ORDER

i] The respondent no.2 – Education Officer shall keep the petitioner in the list of surplus candidates to be absorbed and shall thereafter pass an order directing absorption of the petitioner in the other school as per its turn.

ii] It appears that the salary has been paid to the petitioner upto 30.6.2014. The question is about the salary from 1.7.2014 to 23.8.2014. The management of the respondent – school shall submit the salary bill to the Education Officer for the said period. The Education Officer shall process the same, verify the said bill and if he comes to the conclusion that the said amount is due and payable, then may sanction the bill or pass such appropriate order as he may think proper.

iii] In case the Education Officer does not sanction the said salary bill, then it would be the responsibility of the management to pay the salary to the petitioner from 1.7.2014 to

23.8.2014.

iv] Writ petition is accordingly disposed of with aforesaid observations. No costs.

(K.L. WADANE, J.) **(S.V. GANGAPURWALA, J.)**