

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

**CIVIL APPLICATION NO. 164 OF 2015
IN
WP/1917/2012**

NAVGAN SHIKSHAN SANSTHA, BEED AND ANOTHER
VERSUS
GORAKH MANIKRAO JADHAV AND OTHERS

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Advocate for Applicants : Mr N L Jadhav
AGP for Respondents: Mrs A V Gondhalekar AGP
Advocate for Respondents : Mr A N Nagargoje Adv For
Petitioner

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**CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.
Dated: July 01, 2016**

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PER COURT :-

1. Present Civil Application is filed for modification of the order to the extent of petitioner be reinstated as per the affidavit filed by the respondents No.3 and 4 of the writ petition.

2. Mr. Jadhav, the learned counsel for the applicants submits that, in the affidavit filed by the present applicant a mistake was committed. In fact, the post of the junior stenographer was not vacant on the said date. Same was already filled in by promotion. In view of that, the order passed by this Court cannot be complied

with. Moreover, as the said post itself was not vacant, the statement made by the Advocate was not proper. The said statement is also against the record.

3. Mr. Nagargoje, the learned counsel for the non applicants submits that, on oath said statement was made and said statement was accepted by this Court.

4. We had asked the learned A.G.P to place on record the staffing pattern. Pursuant to the directions given by us, staffing pattern has been placed on record by the Jt. Director of Higher Education. As per said staffing pattern, two posts are vacant i.e. one of Superintendent and another of Sr. Clerk. Post of Junior clerk does not appear to be vacant.

5. We had asked Mr. Nagargoje, the learned counsel for the petitioner whether the original writ petitioner is ready to accept the post of Superintendent. Mr. Nagargoje, the learned counsel, on instructions of the original writ petitioner, who is present in the Court, states that, he is ready to accept the post of Superintendent which is an equivalent post to the junior

stenographer. The management is also ready to accommodate the petitioner on said post.

6. Considering the aforesaid factual matrix as the order passed by us on 21.11.2014 in writ petition no.1917 of 2012 could not be implemented as the same was based on a statement made on erroneous facts, we are inclined to modify the said order.

7. Considering the above, the order dated 21.11.2014 passed in Writ Petition No.1917 of 2012 is modified as under :-

I] The original respondents No.3 and 4 i.e. present applicants shall reinstate the petitioner on the post of Superintendent. However, the petitioner is not entitled for back wages from 1.10.2001 till the date of the order passed in writ petition. The original writ petitioner will be entitled for continuity in service. The Management shall send the proposal in that regard to the authority concerned.

II]. In case, because of the reinstatement of the petitioner on the post of Superintendent some issue arises, that of reservation, same shall be adjusted by appointing any other candidate on any other vacant post.

8. Civil Application accordingly disposed of. No costs.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-