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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.12402/2015

Dr.Zakir Husain Shikshan Prasarak Mandal.
...Petitioner..

Versus

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

.....

Shri P.G.Rodge, Advocate for the Petitioner.
Smt M.A.Deshpande, AGP for Respondent Nos.1 & 2.
None Present for Respondent No.3.

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

DATE: 30.09.2016

ORDER :

1] Learned counsel for the petitioner states that the petitioner has moved the application with the Education Officer seeking permission to appoint Assistant Teacher on temporary basis on partially grant-in-aid post till the decision in appeal filed by one Maimunabegum whose services are terminated. However, the said application is rejected.

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2] Learned AGP states that the petitioner was directed to absorb one Abdul Salim Abdul Rauf to join the services at the petitioner – school. He was thereafter accommodated in the Zilla Parishad Urdu school. As one post has fallen vacant in the petitioner – school, it will be legal and valid to direct the said teacher to join the services in the petitioner – school.

3] It is submitted that the post on which the petitioner is seeking permission to appoint a temporary teacher is not 100% grant-in-aid post, the same is only on partially grant-in-aid post, as per the petitioner. On partially grant-in-aid post, a surplus teacher could not be accommodated and the appointment to be made is only temporary as the person, who was appointed on the said post, is terminated and has challenged the said termination order before the Tribunal.

4] Considering the aforesaid conspectus of the matter, we set aside the impugned order. The petitioner may appoint an Assistant Teacher on temporary basis till the decision in appeal after following due procedure of law on the said partially grant-in-aid post. The person, who would be appointed, shall be given clear understanding of

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the fact that he is being appointed on temporary basis and subject to decision in the appeal pending before the Tribunal filed by the terminated employee.

5] Writ petition accordingly stands disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)