

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1380 OF 2015

(Ku. Rajani d/o Chandrabhan Madavi vs. Deputy Director of Education and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri P.N. Shende, Advocate for petitioner.

Shri A.S. Fulzele, Additional Government Pleader for
respondent no.1.

Shri J.B. Kasat, Advocate for respondent no.2.

CORAM : B.P. DHARMADHIKARI AND
KUM. INDIRA JAIN, JJ.

DATED : JULY 26, 2016

Reply tendered by Adv. Kasat on behalf
of respondent no.2 is taken on record.

Adv. Shende for petitioner is seeking time
to file appropriate counter. However, we have
rejected his request.

We find that petitioner has continued in
employment since 2007. According to respondent
no.2, at the relevant time, she did not possess
necessary educational qualification. She obtained
said qualification (D.Ed.) for the first time in August
2014. Thereafter proposal seeking proper approval
to her employment was submitted and it has been
rejected on the ground that there is no vacancy.

The record shows that the staff justification for academic year 2012-13 and thereafter for academic year 2013-14 has been looked into for the said purpose. In the year 2012-13, total posts of Teachers including that of Head Master were eight and in 2013-14, same were seven. According to petitioner, School runs classes from Standard I to Standard VIII and hence, minimum eight Teachers and one Head Master/Principal are must.

We keep that contention open.

Perusal of impugned order dated 20/12/2014 shows that in the year 2013-14, total eight Teachers were functioning and, therefore, one Teacher was in excess. In 2014-15, again it has been mentioned that along with Head Master, eight Teachers were functioning and, therefore, one was surplus. However, staff justification for year 2014-15 is not produced on record by respondent no.1 Deputy Director or then by respondent no.2 Education Officer, who has passed the impugned order.

The petitioner also states that though she did not possess D.Ed. qualification, as per law, she was given time to acquire it and hence, her initial employment from 2007 till she secured D.Ed. qualification was already approved.

In this peculiar situation, we find that

interest of justice can be met with by directing respondent no.2 to extend an opportunity of hearing to petitioner as also respondent nos.3 and 4. Respondent no.2 shall find out the position and staff justification for academic year 2014-15 and also impact of contention that petitioner was given time to acquire D.Ed. qualification in accordance with Government policy.

The petitioner shall appear before respondent no.2 for the purpose of said hearing on 22/8/2016 and respondent no.2 shall take a suitable decision thereafter within next two months.

Till then salary of petitioner shall be released as before, i.e. as untrained Teacher.

The writ petition is thus partly allowed and disposed of. No costs.

JUDGE

JUDGE

khj

CERTIFICATE

I certify that this order uploaded is a true
and correct copy of original signed order.

Uploaded by :

Kamal H. Jeswani
Private Secretary

Uploaded on :

28/07/2016