

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No. 4183/2015.

Yashwant Bhiwaji Shende

-VERSUS-

State of Maharashtra and others.

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

Court's or Judge's Orders

**CORAM : B.P. DHARMADHIKARI
& P.N. DESHMUKH, JJ.**

DATE : APRIL 20, 2016.

Heard Smt. Neeta Jog, learned Counsel for the petitioners, Shri Lokhande, learned A.G.P. for respondent no.1 and Shri W.G. Paunikar, learned Counsel for respondent nos. 2 and 3, for some time.

2. Basis on which seniority list is to be prepared is a secondary aspect. Smt. Jog, learned Counsel for petitioners has pointed out that the Government Resolution issued on 19.08.1999 obliged the respondent no.2 employer, Zilla Parishad to prepare a seniority list, and that has never been prepared. She also points out a judgment delivered by the Division Bench of this Court reported at **2006**

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(2) Mh.L.J. 124 (Vithal Fakruji Madavi .vrs. Zilla Parishad, Chandrapur and others), to urge that norms prescribed therein need to be kept in mind while drawing such seniority list.

3. Shri Paunikar, learned counsel for respondents invites attention to a judgment of Hon'ble Apex Court reported at **(2014) 13 SCC 219 (Viman Vaman Awale .vrs. Gangadhar Makhriya Charitable Trust and others)**, to urge that norms are clarified by the Hon'ble Apex Court. He further submits that in 2009 there has been an enactment namely "Right of Children to Free and Compulsory Education Act, 2009" and as per that Act, 8th standard also forms part of primary school. He further states that the seniority list needs to be prepared keeping in mind these developments.

4. As respondent no.2 Zilla Parishad has till date not prepared any seniority list, we are not inclined to comment either way on the rival contention. It is for the Local Authority like respondent no.2 to finalize the seniority list. The seniority list should have been prepared after August, 1999. Thus, for last more than 17 years, there is no

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seniority list. Hence, the graduate teachers who otherwise would have been benefited, are put to loss.

5. Hence, we direct the respondent no.2 to undertake the exercise of drawing seniority list in accordance with law and to complete it within a period of 3 ½ months from today.

6. Keeping all rival contentions open for adjudication, if any cause of action therefor arise thereafter, we dispose of the Writ Petition with these directions. No costs.

7. Certified copy expedited.

JUDGE

JUDGE

Rgd.