

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4963/2016

(SHRIKANT ASHOKRAO KUDE **VERSUS** DEPUTY DIRECTOR OF EDUCATION, NAGPUR DIVISION,
NAGPUR & OTHERS)

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

Court's or Judge's orders

Shri V.N. Patre, counsel for the petitioner.
Shri Nikhil Joshi, A.G.P. for the R-1 & 2.
Shri Anand Parchure, counsel for the R-3 to 5 & 7.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : NOVEMBER 23, 2016.

By this writ petition, the petitioner challenges the order of the Education Officer (Secondary), Zilla Parishad, Nagpur, dated 25.04.2016 holding that the respondent no.7 was rightly declared surplus in the school run by the respondent no.6 and was rightly absorbed in the respondent no.5-school.

The petitioner is working as a peon in the school run by the respondent no.5-School. A post of junior clerk became vacant in the respondent no.5-school in the year 2014. According to the petitioner, as per Schedule F appended to the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, it would be necessary for the management to give preference to a Class-IV employee to be appointed on the post of junior clerk. It is stated that the respondent no.7 was declared as surplus in the respondent no.6-school and she was absorbed in the respondent no.5-school in which the petitioner is working on the post of peon. With the absorption of the respondent no.7 on the post of

junior clerk in the respondent no.5-school, it is the case of the petitioner that the chances of the petitioner of being promoted to the post of junior clerk stand hampered though the petitioner would fall within the zone of consideration for promotion to the post of junior clerk that fell vacant in the respondent no.5-school, in the year 2014. It is stated that the issue whether the respondent no.7 was surplus in the respondent no.6-school and was therefore, entitled to be absorbed in some other school or for that matter, the respondent no.5-school, should have been decided by the Education Officer only after hearing the petitioner as the chances of the petitioner to be promoted to the post of junior clerk got hampered in view of the absorption of the respondent no.7 as a Junior Clerk in the respondent no.5-school.

We are not inclined to entertain the writ petition and interfere with the order passed by the Education Officer holding that the respondent no.7 was surplus in the school run by the respondent no.6 and could have been absorbed in the respondent no.5-school. As per the policy of the State Government when an employee become surplus in one school, the said employee could be absorbed in another school on a post on which he/she was working. Admittedly, the respondent no.7 was working on the post of junior clerk in the respondent no.6-school. The respondent no.7 was declared surplus in the respondent no.6-school and by the orders of the education authorities, was absorbed in the respondent no.5-school. In the dispute pertaining to the declaration of the respondent no.7 as surplus in the respondent no.6-school, only the respondent no.5, the

respondent no.6 and the respondent no.7 would be entitled to be heard. Merely because the petitioner is working in a Class-IV post in the respondent no.5-school and has a right to be considered for promotion on the post of junior clerk after it becomes vacant, it cannot be said that the petitioner would have any right to claim audience before the education officer when the education officer decides the issue pertaining to the declaration of the respondent no.7 as surplus in the respondent no.6-school.

Since there is no merit in the writ petition filed by the petitioner, we dismiss the same with no order as to costs.

JUDGE

JUDGE

APTE