

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

WRIT PETITION NO.5265 OF 2015

Sushant Sanskar Shikshan Sanstha, Bhilweada, Tahsil and District Bhandara, through its
Secretary Shri B.A. Goswami and anr

..vs..

The State of Maharashtra, through the Secretary, School Education Department,
Mantralaya, Mumbai-400 032 and ors

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

Court's or Judge's Order

Shri M.V. Samarth, counsel for the petitioners.
Shri S.B. Bissa, AGP for R-1 to 4.

**CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA K. JAIN, JJ.**

DATED : JULY 27, 2016.

Heard learned counsel Shri M.V. Samarth
for the petitioners and learned Assistant Government
Pleader Shri S.B. Bissa for respondent Nos.1 to 4.

Effort of the petitioners is to demonstrate
that though they have work-load for 9 non-teaching
staff, the department is not extending necessary
approval or permission and, hence, all posts cannot be
filled in. Learned counsel Shri M.V. Samarth for the
petitioners further adds that being minority institution,
non-teaching staff, declared surplus in non-minority
school, cannot be directed to be absorbed by the
petitioners. He is relying upon the communications viz.
communication dated 30.1.2016 sent by the Joint

Director of Education to the Secretary of Education Department, communication dated 22.9.2015 sent by the Education Officer (Secondary), Zilla Parishad Gondia to the Deputy Director of Education at Nagpur, and communication dated 16.10.2015 issued, thereafter, by the Deputy Director of Education, Nagpur to the Director of Education at Pune.

Perusal of these documents shows that on 30.1.2016, total 9 non-teaching posts are found admissible to the petitioners. It is also recorded that total 5 persons were working against these 9 posts. The 4 posts are found vacant and hence, a direction was proposed. As per the proposed direction, said vacant posts were to be filled in by absorbing surplus staff. One person, out of those 5, has superannuated and, therefore, vacancies now are 5.

Communication dated 22.9.2015, sent by the Education Officer (Secondary), Zilla Parishad Gondia to the Deputy Director of Education at Nagpur, mentions that if surplus employees are available in other school, the same can be directed to be absorbed by the petitioners, however, as a matter of fact, no surplus employees are available in any minority school. As per this communication, on 16.10.2015, the Deputy Director of Education has sent further communication

to the Director of Education on very same lines.

In this situation, we direct the respondents to take necessary steps to enable the petitioners to fill in vacant posts either directly or by absorption in accordance with law. If the absorption is not permitted in law, the concerned officer shall, with necessary authorization/circular/policy decision in this respect, issue proper communication to the petitioners and allow it to effect the direct recruitment. This decision shall be taken within a period of six weeks.

With these directions and keeping all rival contentions open, we dispose of the writ petition. No costs.

JUDGE

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on : -28/07/2016

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