

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

WRIT PETITION NO.4975 OF 2016

[Mahe Aajam Shamim Ahemad Khan .vs. State of Maharashtra and others]

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

Court's or Judge's orders

Shri S.M. & M.A. Vaishnav, counsel for the petitioner,
Shri Nikhil Joshi, AGP for respondent nos.1 and 5,
Shri P.S. Patil, counsel for respondent no.2,
Shri C.N. Adgokar, counsel for respondent nos.3 and 4.

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

DATED : NOVEMBER 21, 2016.

By this writ petition, the petitioner has sought a direction against the respondent no.2 to allow the petitioner to join the services as an Assistant Teacher in Urdu High School, Pathrot.

The management-society runs more than one school. The petitioner was working in Urdu Girls High School, Anjangaon-Surji since the year 1996. The management transferred the services of the petitioner to Urdu High School, Pathrot by the order dated 31.5.2016, but the Headmaster of Urdu High School, Pathrot did not permit the petitioner to join the duties. The petitioner has, therefore, filed the instant petition seeking a direction against the respondent no.2 to permit the petitioner to join the duties in Urdu High School, Pathrot.

Shri Vaishnav, the learned counsel for the petitioner, fairly states that during the pendency of this writ petition, the petitioner was permitted to join Urdu High School, Pathrot. It is stated that the petitioner has joined as an Assistant Teacher in Urdu High School, Pathrot on 10.10.2016, but the salary of the petitioner for the period, during which he was not permitted to join, is not paid by the Education Officer. It is stated that though

the petitioner has joined after a new Headmaster has joined in Urdu High School, Pathrot, the petitioner is threatened that he would not be granted the continuity of service.

In the circumstances of the case, it cannot be said that the petitioner would not be entitled to continuity of service. Admittedly, the petitioner has joined the services as an Assistant Teacher in Urdu High School, Pathrot from 10.10.2016, the petitioner's services would be considered to be continuous. Coming to the question of payment of salary to the petitioner, the said question could be kept open. The petitioner would be free to ventilate the said grievance before the education authorities, as it would be necessary to consider whether the action of the Headmaster of Urdu High School, Pathrot in not permitting the petitioner to join is correct or not. The Education Officer may decide the issue, if it is so agitated.

With the aforesaid observation, the writ petition is disposed of with no order as to costs.

JUDGE

JUDGE