

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

WRIT PETITION NO. 5837/2016

(SHRIKANT MAHADEV VIGAM **VERSUS** DANDAKARANYA EDUCATIONAL AND CULTURAL
DEPARTMENT AND RESEARCH INSTITUTE, GADCHIROLI & 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. Morande, counsel for the petitioner.
Shri I.K. Daudasariya, counsel for the R-1 to 3.
Mrs. G.R. Tiwari, A.G.P. for the R-4.
Shri P.N. Shende, counsel for the R-5.

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

DATE : DECEMBER 6, 2016.

By this writ petition, the petitioner challenges the order of the Education Officer (Secondary), Zilla Parishad, Gadchiroli, dated 24.08.2016 declaring the petitioner as surplus and retaining the respondent no.5 in service.

According to the petitioner, the petitioner was appointed before the respondent no.5 as a primary teacher and both the teachers were upgraded in Category-C. It is stated that the petitioner acquired the graduate's degree in the year 2012, whereas the respondent no.5 secured the graduate's degree in 2006. According to the petitioner, in view of the judgment of the Hon'ble Supreme Court in Civil Appeal No.7699 of 2014, arising out of Special Leave Petition (Civil) No.29696 of 2013, the petitioner should have been declared to be senior to the respondent no.5. It is stated that in stead of declaring the petitioner as surplus, the education officer should have declared the respondent no.5 to be surplus.

On a reading of the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, the Rules of 1981 and the schedules annexed thereto, it appears that no fault can be found with the order of the education officer in declaring the petitioner to be surplus and retaining the respondent no.5 in the said school. In Category-C, the respondent no.5 was senior to the petitioner as she had secured the graduate's degree in the year 2006, whereas the petitioner had secured the same in the year 2012.

Since the order of the education officer appears to be just and proper, the writ petition is disposed of with no order as to costs.

JUDGE

JUDGE

APTE