

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

WRIT PETITION NO. 52 OF 2016

Godavari Vasudeo Khandare and others

-vs-

The State of Maharashtra, thr.its Chief Secretary, Social Education and Sports Deptt.and others

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

Court's or Judge's Orders.

None for the petitioners.

Mrs.K.R.Deshpande, AGP for the respondent Nos.1 and 2.

Mr. K. Malokar, counsel for the respondent No.3.

CORAM : SMT. VASANTI A. NAIK &
V.M.DESHPANDE, JJ.

DATE : 04.05.2016.

By this writ petition, the petitioners seek a direction to the respondent No.3-Education Officer (Primary) to absorb the petitioners in some other schools.

The petitioners were appointed as Primary School Teachers by the Management in the year 2003. At the relevant time, the school was not brought on grant-in-aid, though it was recognized. The school started receiving partial grant-in-aid from the year 2005-06 and from the year 2008-09 the school was receiving 100% grant-in-aid. The services of the petitioners were approved by the respondent No.3-Education Officer (Primary) on 15/02/2007. It is the case of the petitioners that the school was de-recognized by the respondent No.3-Education Officer, by the order dated, 17-20/04/2013 after holding that the Management was responsible for the de-recognition of the school. It is stated that the students in the school started dwindling from the academic session 2009-10 and since the strength of the students was very low from 2009 to 2013, the recognition of the school was cancelled. According to the petitioners, since the petitioners are not responsible for the de-recognition of the school and since they were

granted approval by the order, dated 15/02/2007, the petitioners are entitled to be absorbed in some other primary schools.

Shri Malokar, the learned counsel for the respondent No.3, supported the action of the respondent No.3 of not absorbing the petitioners in some other schools. It is submitted that the Management as well as the petitioners/teachers were responsible for the de-recognition of the school. It is further stated that though in Writ Petition No.4416 of 2013, the Management had agreed to start the school, the school was not started either by the Management or by the teachers and the staff. The learned counsel for the respondent No.3 sought for the dismissal of the writ petition.

On hearing the learned counsel for the respondents, we find that a case is made out by the petitioners for issuance of a direction to the respondent No.3-Education Officer (Primary) to absorb the petitioners in some other schools. The petitioners were appointed in the year 2003. The school was brought on partial grant-in-aid in the year 2005-06 and the services of the petitioners were approved by the Education Officer on 15/02/2007. The petitioners were working continuously in the school, till the order of de-recognition was passed by the Education Officer on 17-20/04/2013. It is clearly mentioned in the order of the Education Officer, by which the school was de-recognized that the Management was responsible for the de-recognition of the school. The tenor of the order clearly shows that the entire blame for the de-recognition was placed on the Management. For the first time, in the affidavit-in-reply filed on behalf of the Education Officer (Primary) a statement is made that the petitioners were also responsible for the de-recognition of the school. The said statement could not have been made, specially when the order of de-recognition clearly shows that the school was de-recognized due to the fault on the part of the Management. The petitioners were confirmed teachers, whose services were approved by the Education Officer in the year 2007 and it was the duty of the Education Officer to absorb the petitioners/teachers in some other schools after the de-recognition of

the school in which they were working. We reject the stand of the respondent No.3-Education Officer that the petitioners were also responsible for the de-recognition of the school. Even assuming that the Management had agreed to restart the school in the year 2014 and the school was not restarted by the Management, the petitioners cannot be blamed, as the teaching staff is not entitled to start the school on its own. In the circumstances stated herein above, a case is made out by the petitioners for issuance of the directions to the respondent-Education Officer to absorb the petitioners in some other schools.

Hence, for the reasons aforesaid, the writ petition is allowed. The respondent No.3-Education Officer is directed to place the names of the petitioners in the list of surplus teachers that are liable to be absorbed in some other schools and absorb them as per their turn.

Order accordingly. No costs.

JUDGE

JUDGE