

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.211 OF 2017

Smt. Savita d/o. Pandurang Sathe,
Age : 48 years, Occ. Service as
Assistant Teacher at Zilla Parishad
Primary School, Ambehhol,
Tq. and Dist. Osmanabad ..Petitioner

Vs.

The State of Maharashtra,
Through Secretary,
School Education and Sports
Department, Mantralaya,
Mumbai – 32 and ors. ..Respondents

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Mr.S.B.Bhosale, Advocate for petitioner

Mr.A.B.Girase, G.P. for respondent nos.1 to 3

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**CORAM : V.M. KANADE AND
SANGITRAO S. PATIL, JJ.
DATE : JANUARY 25, 2017**

PER COURT :

Heard.

2. The grievance of the petitioner is three-fold. The petitioner has been transferred from Zilla Parishad Primary School, Ambehhol, Tq. and Dist. Osmanabad to Zilla Parishad Primary School,

Walgund vide order dated 19.12.2016. According to the petitioner, the said transfer has been made mid-term since in view of the notification issued by the Government, the last date for absorption of teachers has been prescribed as 31st October every year. Secondly, it is submitted that a representation was made by the petitioner to the Block Education Officer and a copy thereof was given to the Education Officer, however, the representation has not yet been decided. Thirdly, it is the case of the petitioner that she has been transferred on the ground that she is a surplus teacher. However, according to the petitioner, there are four sanctioned posts, out of which two posts are still vacant and as such, the question of petitioner being a surplus teacher does not arise.

3. The learned Government Pleader for respondent nos.1 to 3 has invited our attention to the Government Resolution dated 12/18.05.2011 and

more particularly, Clause 10 of thereof. He submits that the petitioner has an alternate remedy of filing a complaint before the Divisional Commissioner and not before the Block Education Officer or the Education Officer. He submits that such complaint has to be filed before 15 days.

4. After having heard the learned Counsel for both sides, in our view, since the petitioner has an alternate remedy of filing complaint before the Divisional Commissioner, this Writ Petition stands disposed of with liberty to the petitioner to avail of that remedy.

5. Delay in filing complaint before the Divisional Commissioner stands condoned since the petitioner, instead of approaching the Divisional Commissioner, has wrongly approached the Block Education Officer. The petitioner to file complaint before the Divisional Commissioner within a period of two weeks from today.

6. If the petitioner files the complaint within two weeks from today, we direct the Divisional Commissioner to consider the same on merits and in accordance with the provisions of law, as expeditiously as possible and preferably, within a period of four weeks from filing of the complaint. All contentions of the petitioner are kept open.

7. During pendency of the complaint before the Divisional Commissioner, the impugned order shall remain stayed.

[SANGITRAO S. PATIL, J.]

[V.M. KANADE, J.]

kbp