

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

WRIT PETITION NO. 1883 OF 1998

Sudheer Hariharrao Chaudhary,
Age : 39 years, Occupation : Service,
Lecturer in Junior College run by
Abhinav Bharat Shikshan Sanstha,
Nanded.

...PETITIONER

-VERSUS-

- 1 The State of Maharashtra.
- 2 The Deputy Director of Education,
 Aurangabad Division,
 Aurangabad.
- 3 The Education Officer (Secondary),
 Zilla Parishad, Nanded.
- 4 Abhinav Bharat Shikshan Sanstha,
 Nanded.
 Through its Secretary.
- 5 The Principal,
 Netaji Subhashchandra Bose
 Arts, Commerce and Science College,
 Nanded.

...RESPONDENTS

...
Advocate for Petitioner : Shri K.V.Patil h/f Shri S R Barlinge.
AGP for Respondents 1 to 3 : Ms.S.S.Raut.
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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 09th March, 2017

Oral Judgment :

1 The Petitioner is aggrieved by the order dated 29.08.1997 passed by Respondent No.2 and the order dated 20.03.1998 declaring the Petitioner surplus, passed by the same Authority.

2 By interim order of this Court dated 05.05.1998, the impugned orders were stayed and the Petitioner was continued on the same position with liberty to the Management to transfer him to any other college of their own Institution.

3 Respondent Nos.4 and 5/ Management have not appeared in this matter despite service of the court notice.

4 The Petitioner points out the seniority list dated 12.09.1987 prepared by the Management for the Arts, Science and Commerce College. Amongst the teachers appointed for imparting education in the Commerce Faculty, the Petitioner indicates that Shri V.N.Rudrakanthwar appointed on 01.07.1985 is the junior most. Shri S.L.Chintale having been appointed on 21.11.1986 is junior to the Petitioner, who was appointed on 01.09.1983. Yet, the Petitioner was declared surplus.

5 By the interim order of this Court, the Petitioner has

continued in service for the last 19 years. The Petitioner is unaware of any subsequent change in the work load. Keeping this position in view, I deem it proper to continue the interim relief granted to the Petitioner 19 years ago.

6 In the light of the above, this Writ Petition is partly allowed. The interim relief granted in terms of prayer clause (E) is confirmed. The impugned orders dated 29.08.1997 and 20.03.1998 are quashed and set aside.

7 However, Respondent No.2/ Deputy Director of Education shall reconsider the present situation. Respondent No.2 shall issue notices to the Petitioner, Shri Rudrakanthwar and Shri Chintale along with the Management and after hearing all the sides, shall decide whether, any teacher needs to be declared surplus today. Needless to state, the said decision shall be based strictly as per the Rules applicable for declaring the teacher surplus.

8 Rule is made partly absolute in the above terms.