

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

RAST NO.2826 OF 2017.
IN
WRIT PETITION NO.11459 OF 2015.

**The State of Maharashtra and others Vs. Abhijit Bansilal
Gholve and another**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.V.M.Kagne, A.G.P. for the State.
Mr.S.S.Jadhavar, advocate for non-applicant No.1.
Mr.P.D.Tambade, advocate for Respondent No.4 in W.P.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**
Date : 24.02.2017.

PER COURT :

1. Heard.
2. Mr.Kagne, learned A.G.P. submits that at the time when the matter was decided under order dated 20.9.2016, the A.G.P. could not point out the order dated 17.6.2016, passed in Writ Petition No.6606/2015 with connected Writ Petitions at Nagpur, wherein in the said judgment it was observed as under :

“12. This Court has found that for absorption of surplus teachers, there is no question of maintaining any District wise list. A surplus teacher is paid his salary through public revenue and he

is getting it without work. As such he is, under law, obliged to report at the place where ever the work is available in the State of Maharashtra. The direction given or the impugned order does not point out whether in State of Maharashtra, surplus teachers for subjects English and Maths are not available. In PIL, this issue is also involved.”

21. We also direct the respondents that hereinafter no 'no objection' for recruitment or permission to effect direct recruitment shall be granted except with express certification by the Deputy Director of Education of concerned division stating that no surplus teachers to teach the concerned subjects are available for absorption in State. This order shall be circulated by the respondent No.1 to all its Deputy Directors as also to all its Education Officers and also to all its Managements within a period of 15 days from today.”

3. Learned A.G.P. submits that when the Writ Petition was decided, the list of surplus candidates was maintained for the District and not for the Division or the State. The same is required to be considered and in the Division and the State there were many surplus candidates. The learned A.G.P. seeks review of the said order.

4. Mr.Jadhavar, learned counsel submits that the petitioner therein was appointed from reserved category. The ban on

recruitment was relaxed.

5. We have considered the submissions. While deciding W.P.No.11459/2015, under order dated 20.9.2016, we had considered various facets of the matter i.e.

- (i) Application given by the Management to the Education Officer prior to the advertisement;
- (ii) The Education Officer not responding to the said application of the institution;
- (iii) After not receiving any information from the Education Officer, the advertisement being given.

6. It is also the case of the Writ Petitioner that the Petitioner is from reserved category. Apart from the aforesaid facts it was also considered that in the District in the said pay-scale, there was no surplus candidate available.

7. As far as contention of the present applicant that the Statewise or Division-wise list of surplus candidates is to be considered in view of the judgment of the Division Bench of this Court at Nagpur, dated 17.6.2016 in W.P.No.6606/2015 with connected Writ Petitions, the same was not an issue raised at the time of hearing the Writ Petition. The said order under Review dated 29.9.2016 in W.P.No.11459/2015 would not be a precedent to the extent of observation of non-existence of surplus candidates.

8. With this clarification, the Review Petition is disposed of.

No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.24.02.2017.
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