

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

WRIT PETITION NO. 5241 OF 2017

Patel Shamsuddin Shaikh Husen .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Pramod B. Gapat, Advocate for the Petitioner.

Mrs. A. V. Gondhalekar, Addl.G.P. for Respondent Nos. 1 to 4.

**CORAM : S. V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

DATE : 19TH APRIL, 2017.

PER COURT :

. Issue notice to respondents. The learned Additional Government Pleader waives notice for all respondents.

2. Mr. Gapat, the learned counsel for the petitioner submits that, the school where the petitioner was serving was de-recognized in the year 1999. For two to three times Education Officer had passed orders for absorption of the petitioner, but the school where the petitioner was directed to be absorbed did not absorb the petitioner. Lastly Ashta High School, Ashta absorbed the petitioner in the year 2012. The learned counsel submits that, the petitioner had made representation seeking continuity in service and payment of salary to the Education Officer. The Education Officer rejected the application of the petitioner. The

representation was made pursuant to the orders passed by this Court. The petitioner is entitled for the salary as well as continuity in service.

3. Mrs. Gondhalekar, the learned Additional Government Pleader submits that, the petitioner had not worked for all these years, as such is not entitled for the salary and continuity in service.

4. It appears that, petitioner is not responsible for the closer of the school, where he was working. The same can be deduced from the fact that the orders are passed by the Education Officer directing absorption of the petitioner in other schools. As far as denial of the salary is concerned, we do not find any error in the same. However, authority has not applied its mind for considering case of the petitioner for continuity in service. The Education Officer shall reconsider the case of the petitioner for continuity in service and take decision upon the same within a period of three (03) months from today on its own merits and in accordance with law. The petitioner has already filed the application (page 26). The same be decided. The writ petition is disposed of. No costs.

[SANGITRAO S. PATIL, J.]

[S. V. GANGAPURWALA, J.]