

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6526 OF 2008

1. Hanumant Irrappa Choudhari,
Age 42 years, Occ. Assistant Teacher,
Wasantrao Naik Secondary
Ashram School, Kanadi Borgaon,
Tq. and Dist. Latur.

2. Dattatraya Rajabhau Bidwe,
Age 36 years, Occ. Assistant Teacher,
Wasantrao Naik Secondary
Ashram School, Kanadi Borgaon,
Tq. and Dist. Latur.

3. Gunwant Sakhkaram Bhure
Age 35 years, Occ. Assistant Teacher,
Wasantrao Naik Secondary
Ashram School, Kanadi Borgaon,
Tq. and Dist. Latur.

..Petitioners

Versus

1. Ganesh Gopalrao Chavan,
Age 34 years, Occ. In Charge Head
Master, Wasantrao Naik Secondary
Ashram School, Kanadi Borgaon,
Tq. and Dist. Latur.

2. Chandrashekhar Dhhuplappa Ghodke,
Age 42 years, Occ. Assistant Teacher,
Wasantrao Naik Secondary
Ashram School, Kanadi Borgaon,
Tq. and Dist. Latur.

3. Wasantrao Naik Secondary
Ashram School, Kanadi Borgaon,
Tq. and Dist. Latur, through the
Head Master.

4. Dnyanodaya Vimukta Jati
Shikshan Prasarak Mandal,
Kanadi Borgaon (Naiknagar),

Tq. and Dist. Latur through its Secretary.

5. The Special District Welfare Officer, Latur.

6. The Divisional Social Welfare Officer, Latur Division, Latur.

7. The Director of Social Welfare, Maharashtra State, Pune.

8. The State of Maharashtra Through the Secretary, Social Welfare Department, Mantralaya, Mumbai.

..Respondents

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Advocate for Petitioners : Shri D.A.Mane h/f Shri Milind Patil

Advocate for Respondents 1 & 2 : Shri S.R.Shirsat

h/f Shri S.S.Jadhavar

Advocate for Respondent 4 : Shri V.B.Jadhav h/f Shri A.N.Irpatgire

AGP for Respondents 5 to 8 : Smt. V.S.Choudhary

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CORAM : RAVINDRA V. GHUGE & SUNIL K. KOTWAL, JJ.

Dated: November 30, 2017

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ORAL JUDGMENT : (PER RAVINDRA V. GHUGE, J.):-

1. The petitioners are aggrieved by the selection and appointment of respondent Nos.1 and 2. It is strenuously contended that their appointments were illegal and the advertisement published was held to be illegal by the competent department.

2. While admitting this petition on 22.2.2010, this Court has refused interim relief to the petitioners.

3. The strenuous contention of the petitioners is that though they were working in the Primary School, which is 100% grant-in-aid from 1994-95, an advertisement was published on 27.5.2004 seeking to make fresh appointments in the Secondary School, which was on no grant basis. Though the petitioners were eligible and qualified to be appointed as Teachers in the Secondary School, respondent Nos.1 and 2 were appointed. A communication dated 15.6.2004, issued by the Special District Social Welfare Officer, Latur addressed to the Secretary of the Educational Institution is pointed out to indicate that the said authority has declared the interviews held on 15.6.2004 as being illegal. We find that the said letter has been issued on the date when the interviews were scheduled.

4. A further communication dated 22.5.2006 is pointed out to contend that the interviews held on 15.6.2004 were set aside by the Special District Social Welfare Officer, which is after two years from the date of appointment of respondent Nos.1 and 2.

5. We find that the following factors are of significance while deciding this case:-

(a) Pursuant to the advertisement dated 27.5.2004, these petitioners did not apply for seeking appointments as Teachers in the Secondary School, which was no grant basis.

(b) It is apparent that the petitioners may not have applied since the Secondary School was started on 'no grant basis' and the petitioners were permanent employees in the Primary School, which was on 100% grant in aid.

(c) This petition has been filed on 8.8.2008, which is after four years of the appointment of respondent Nos.1 and 2.

(d) This Court has refused interim relief to these petitioners and the appointments of respondent Nos.1 and 2 have not been made subject to the result of this petition.

(e) Respondent Nos.1 and 2 have been working for practically 14 academic years beginning from 2004-05.

6. We are, therefore, of the view that when the petitioners had an opportunity to apply for the fresh selection process meant for recruiting teachers in the Secondary School, they have refrained from doing so, apparently because the said school was on 'no grants'

basis. After the Secondary School was granted aid by the Government, the petitioners may have developed an interest. It also cannot be over looked that the process undertaken by the society was for recruiting fresh teachers in the Secondary School and it was not a promotional avenue, which would have created any right in these petitioners.

7. Considering the effect of the above factors and keeping in view that these respondents have now been confirmed in employment and respondent No.1 has also been promoted as the Head Master, being the senior most teacher, from 2009, we do not find that this petition could be entertained.

8. As such, this petition, being devoid of merits, is dismissed. Rule is discharged.

(SUNIL K. KOTWAL, J.)

(RAVINDRA V. GHUGE, J.)

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