

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

BENCH AT AURANGABAD.

WRIT PETITION NO.10842 OF 2016

Shri Jagan S/o Vithoba
Waghmode. ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...
Mr.R.I.Wakade, advocate for the Petitioner.
Ms.R.P.Gour, A.G.P. for the State.
Mr.R.K.Jadhavar, advocate for Respondent Nos.5 to
7.

...

**CORAM : S.V.GANGAPURWALA AND
S.M.GAVHANE, JJ.**

Date : 05.12.2017.

PER COURT :

1. The petitioner claims to be senior to Respondent No.7 and also challenges the approval granted in favour of Respondent No.7 on 17.6.2014 as a trained graduate teacher. According to the petitioner, he has acquired the qualification of B.A.B.Ed. in May 2012. From the year 2009, the

post of graduate teacher was sanctioned and lying vacant. The Respondent No.7 was appointed on 19.8.2012 on non-grant in aid post and in 2013 was transferred to the grant in aid post meant for trained graduate teacher. Learned counsel submits that the petitioner being senior had the first right to be considered for appointment on the post of trained graduate teacher. He possess necessary qualification for the said post. The representations given by the petitioner from time to time are not considered and approval granted to the petitioner as trained graduate teacher with effect from 1.8.2014 is erroneous. It ought to be from 1.8.2012.

2. Mr.Jadhavar, learned counsel for the Management and Respondent No.7 submits that on and from the date of appointment of Respondent No.7, the Respondent possessed the qualification of a trained graduate teacher. The vacancy having arisen, the Respondent No.7 was transferred to the grant in aid post. No error has been committed.

3. Learned A.G.P. submits that to promote a candidate to a post of trained graduate teacher is the prerogative of the Management and as the Management has first forwarded the proposal of Respondent No.7, the same is considered.

4. It appears that the Management has issued contradictory orders. It has issued order to the petitioner on 1.10.2016, thereby appointing the petitioner on the post of a trained graduate teacher with effect from 1.8.2012. The approval is granted to the appointment of the petitioner on the post of trained graduate teacher from the year 2014, whereas Respondent No.7 is granted approval as a trained graduate teacher with effect from 17.12.2013. It is stated by the learned counsel for the petitioner and Respondent that both the petitioner and Respondent No.7 are accommodated on the post of trained graduate teacher and they are accommodated on sanctioned posts. In light of that the only question would be about the seniority.

5. As per Rule 12 of the MEPS Rules, it is for the Education Officer to consider the aspect of seniority. While considering the said aspect all the relevant factors are required to be considered by the Education Officer.

6. The Education Officer shall consider the aspect of seniority between the petitioner and Respondent No.7 after hearing the petitioner, Respondent No.7 and the Management. The petitioner may file a comprehensive application with the Education Officer. The same shall be decided as directed above in accordance with law expeditiously, preferably within six (6) months. While deciding the aspect of seniority, the order dated 17.12.2016 (page 65) shall not be an impediment and the same shall be independently decided.

7. The Writ Petition is disposed of. No costs.

(S.M.GAVHANE, J.)

(S.V.GANGAPURWALA, J.)

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