

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

**WRIT PETITION NO. 10948 OF 2016**

Manoj Suresh Udmale

.. **Petitioner**

**Versus**

The State of Maharashtra and others

.. **Respondents**

**WITH**  
**CIVIL APPLICATION NO. 16464 OF 2016**

Shri Avishkar Shelke h/f Shri Chandrakant B. Gore, Advocate for the Petitioner.

Shri C. S. Kulkarni, A.G.P. for Respondent Nos. 1 and 2.

Shri Vikramsingh P. Patil, Advocate for Respondent Nos. 3 and 4.

Shri Pravin S. Dighe, Advocate for Respondent No. 5.

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

**DATE : 4<sup>th</sup> December, 2017**

**PER COURT :**

1. The petitioner assails the communication dated 8.7.2016 thereby cancelling the approval granted to him as part time lecturer in English subject. According to the learned counsel, as per the staffing pattern the post is available for part time English Teacher. Even if respondent No. 5 is considered for the post of full time English teacher still the post of part time English teacher is available. The order dated 8.7.2016 is without issuing notice to the petitioner.

2. Mr. Dighe, learned advocate for respondent No. 5 submits that statement was made by the management in a writ petition filed by respondent No. 5 that, upon the vacancy being created the proposal of respondent No. 5 would be sent for full time post. The said statement of the management has been recorded in the order of this court in Writ Petition No. 2783 of 2015 dated 3<sup>rd</sup> September, 2015 and now one full time post of English subject is available. Respondent No. 5 belongs to O.B.C. category.

3. It is further submitted that payment has been made to the petitioner.

4. We have heard the learned A.G.P. so also Mr. Patil, learned advocate for the management.

5. The question of payment of salary would only be for the period the employee has worked.

6. As the impugned order dated 8.7.2016 is passed without hearing the petitioner, we set aside the said order and direct the concerned authority to reconsider the grant of approval to the petitioner as a part time teacher in English subject. The authority shall consider the staffing pattern and consider the approval to the appointment of the petitioner as a part time teacher in English subject.

7. In view of the fact that the impugned communication is quashed and set aside the respondent - management shall consider the petitioner for reinstating him on a part time post for English subject as per the availability of the work load.

8. The authority has directed the management to forward the proposal of respondent No. 5 for a full time teacher in English subject. The same shall be complied by the management and considered by the Deputy Director of Education. The respondent No. 5 belongs to O.B.C. category. The availability of the post under the said category shall be considered.

9. The writ petition is accordingly disposed of with aforesaid observations and directions. No costs.

10. In view of disposal of writ petition, civil application also stands disposed of.

**[S. M. GAVHANE, J. ]**

**[S. V. GANGAPURWALA, J. ]**

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