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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4376 OF 2014

Smt. Haseena Shamshoddin Mulla	..Petitioner
Versus	
The State of Maharashtra	
Through the Principal Secretary,	
School Education and Sport	
Department, Mantralaya Mumbai and others	..Respondents

Mr. Vikram V. Pai for the Petitioner.
Ms. Kavita N. Solunke, AGP for Respondent Nos.1 to 3.

**CORAM: B. R. GAVAI &
SANDEEP K. SHINDE, JJ.**

DATE: 14th November, 2017

P.C.:-

1] Rule. Rule is made returnable forthwith. Respondents waive service. Heard by consent of parties.

2] This Court in Writ Petition No.5887 of 2016 had an occasion to consider the similar grievance of similarly situated employees who were employed in Respondent No. 4 – School. It will be relevant to refer to paras 3, 4 and 5 of the order dated 11th October, 2017 passed by the Division Bench of this Court in the said Writ Petition, which read thus:-

“3] Petitioners, alongwith other teaching and non-teaching staff, were working in one Jamiyatul Kuresh (Khatik Samaj) Urdu Primary School, Solapur. It appears that, on account of mismanagement of the said School, the recognition granted to the said School was withdrawn. As a consequence thereof, Petitioners and the other teaching as well as non-teaching staff were discontinued. Petitioners, therefore, made a representation for their absorption. The same is rejected on the ground that it is the teachers who were responsible for mismanagement of the School and therefore they are not entitled for absorption.”

“4] We find that the stand taken by the State Government is not correct. The learned Counsel for the Petitioners has placed on record communication addressed by Respondent No.2 to Respondent No.1. The same is taken on record and marked “X” for the purpose of identification. Perusal of the said communication would reveal that after withdrawal of recognition of the said School, three Assistant Teachers, one Clerk and one Peon have already been absorbed in some other School.”

“5] When five members of the staff of the School of which recognition is withdrawn, have already been absorbed, we find no justification in the stand of the State Government in denying the same relief to the Petitioners who are similarly situated. It is not the case of Respondents that it is only these two Petitioners who were responsible for mismanagement of the School and not five other members of the teaching as well as non-teaching staff.”

3] The case of the present Petitioner is almost identical with the case of the employees, whose Petition was decided by this Court by

Order dated 11th October, 2017 passed in Writ Petition No.5887 of 2016.

4] Hence, Rule is made absolute in the following terms:-

(i) Petitioner is directed to be absorbed in other aided Urdu School, as expeditiously as possible and, in any, case within a period of three months from today.

(ii) Though, we are not inclined to grant back-wages to the Petitioner, Petitioner would be entitled for continuity of service with all benefits, including the pensionary benefits, from the date on which her services stood terminated and from the date on which she will be actually absorbed.

(iii) Petition is disposed of.

(SANDEEP K. SHINDE, J.)

(B. R. GAVAI, J.)