

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

WRIT PETITION NO. 13835 OF 2016

Padmashree Dr.Vasantdada Patil Shikshan
Sanstha, Satara & Anr.

...Petitioners

vs.

The State of Maharashtra & Anr.

...Respondents

Mr.Sagar Mane with N.V. Bandiwadekar for Petitioners.
Ms.K.R.Kulkarni for Respondents.

CORAM : PRASANNA B. VARALE, J.

DATE : 21 AUGUST 2017

P.C. :

The Petitioner before this court is challenging the orders passed by the Education Officer (Secondary), i.e. Respondent No.2, dated 14 September 2016 directing the Petitioner to accommodate one Mr.Balasaheb Nale, a teacher declared as a surplus teacher as well as one Mr.Ashok Kadam. It was the submission of learned Counsel for the Petitioner that the Petitioner institute is having vacancy of two candidates possessing the requisite qualifications, i.e. B.A. B.Ed. (English and Geography), BSC B.Ed. (Mathematics) and HSC D.Ed (Science). The vacancies are from the reserved category candidates. It was submitted that Mr.Ashok Kadam is a general category candidate whereas Mr.Balasaheb Nale is possessing the Art Teachers diploma and there was no post available to accommodate the candidate possessing Art Teachers diploma.

2 Perusal of the order passed by this court shows that on 25 January 2017, this court found that though there were two posts available and though the Petitioner was ready and willing to accommodate surplus

teachers, none of the Scheduled Tribe category candidates were sent from the surplus teachers' category. The order refers to the direction dated 23 December 2016. At the request of learned AGP, time was granted to file reply. The record shows that reply is filed on behalf of the State. It is submitted in the reply that in the process of absorption of the surplus teachers, the on-line procedure is followed and adopted and on the seniority basic choice is given to the teachers. In the said process, the rounds were conducted. It was submitted in the additional affidavit in reply that after verifying the list of surplus teachers, it revealed that surplus teacher is not available in ST category in Satara District. It is further stated that those teachers, who have not been absorbed at one district level, they shall be absorbed at divisional level and at divisional level, the Deputy Director is bound to absorb surplus teachers in five districts. Along with additional affidavit, a list of surplus teachers is annexed. Perusal of the order of this court dated 20 June 2017 shows that the attention of this court was invited to an affidavit in rejoinder filed by Chandrakant Khamkar, Head Master of the Petitioner No.2 school and in particular, para 5 and it was submitted that there are as many as three teachers from ST category are rendered surplus from Satara District and there are two posts available in the Petitioner school. This Court directed learned AGP to take instructions as to whether these two teachers, namely, one Ganesh Thakare and Shantilal Pawar, have joined their original school or some other school and if not, then whether they are willing to join duty with the Petitioner school. This exercise was to be done within stipulated period of two weeks. On 4 July 2017, it was submitted by learned Counsel for the Petitioner that the Petitioner is ready and willing to absorb Ganesh Thakare and Shantilal Pawar. Learned AGP, on instructions, submitted that Mr. Ganesh Thakare and Shantilal Pawar have already joined their original school and therefore,

they were not available so as to join the Petitioner school. In compliance of order of this court dated 4 July 2017, an additional affidavit dated 18 July 2017 was filed through the Deputy Education Officer, Zilla Parishad, Satara. Statements made in the additional affidavit are already referred to.

3 Today, learned Counsel for the Petitioner placed on record a communication forwarded to the Education Officer (Secondary). It is submitted in the communication that in the Petitioner institute, three posts are available and the institute can accommodate the candidates from the reservation category having backlog with the institute. The communication further states that the Petitioner is ready to opt for the accommodation of surplus teachers through on-line process. It is further stated that the Petitioner institute would undertake the exercise of the accommodation of surplus teachers through on-line process and would not raise any objection in the exercise of on-line process. Learned Counsel for the Petitioner submits that in view of the communication of the Petitioner, the present petition be disposed of.

4 Considering the above referred facts as well as the communication dated 19 August 2017 and the undertaking given by the Petitioner that they would undertake the exercise of accommodation to surplus teachers through on-line process, the order impugned in the petition dated 14 September 2016 directing the Petitioner to accommodate Mr.Balasaheb Nale and order dated 14 September 2016 directing the Petitioner to accommodate Mr.Ashok Kadam as surplus, is quashed and set aside.

5 The petition is disposed of.

(PRASANNA B. VARALE, J.)