

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 4776 OF 2016

(Ku. Ratnmala Kashiram Lahole (Now Sau. Kalpana w/o Dadarao Patil) vs. Deputy Director of Education, Amravati Region, Amravati & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.
MARCH 01, 2017.**

Heard Shri R.D. Karode, learned counsel for the petitioner, Shri N.R. Rode, learned AGP for respondent No. 1.

2. Shri Jain, learned counsel for respondent No. 2 states that he is still awaiting instructions. He is seeking time of one week to file reply affidavit.

3. The petitioner has been declared surplus on 16.06.2016 as per staff justification for the Academic Year 2015-16. Obviously, that staff justification was on the strength of students in September 2015 and action has been taken in later academic year. The petitioner also states that one Teacher has expired in January 2017 and one Teacher is retiring on superannuation on 31.03.2017.

4. Shri Jain, learned counsel states that these facts are not pleaded in the petition and, therefore, cannot be looked into.

5. We find that this Court has not granted any interim order to the petitioner. Writ Petition has been filed before this Court on 27.07.2016 and notice has been issued on 20.08.2016. Respondent No. 2 – Municipal Council appears to have been served in September 2016 and has not filed any reply till date. Thus, the petitioner is continuing in employment as Assistant Teacher even today.

6. In the circumstances, interest of justice can be met with by directing the petitioner to make appropriate representation to respondent No. 2 within two weeks from today. If such a representation is made, Respondent No. 2 can consider staff justification for the year 2016-17, the subsequent events like death or superannuation and find out whether it is still necessary to declare the petitioner surplus. This decision shall be taken within next four weeks.

7. With these directions and keeping all rival contentions open, we dispose of the present writ petition. However, there shall be no order as to costs.

JUDGE

JUDGE

*GS.