

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

**REVIEW APPLICATION NO. 75 OF 2018
IN
WRIT PETITION NO. 5105 OF 2009**

Syeda Rubina Kadri Syed Attaullah Kadri .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
REVIEW APPLICATION NO. 76 OF 2018
IN
WRIT PETITION NO. 9298 OF 2015**

Sayed Rubina Quadri Attaullah Quadri .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri. S. S. Kazi, Advocate for the Petitioner in both.

Smt. A. V. Gondhalekar, Addl.G.P. for Respondent/State in both.

Shri. Dilip Patil Bankar, Advocate for Respondent No. 4 in both .

None for Respondent Nos. 5 to 7.

**CORAM : S.V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATED : 11th April, 2018

PER COURT:

. Mr. Kazi, learned advocate for the review applicant submits that while disposing of Writ Petition No. 9298 of 2015 and Writ Petition No. 5105 of 2009 relevant Government Resolutions could not be brought to the notice of this court. The Government Resolutions are holding the field and it contemplates that, once the petitioner has come in partial grant in aid and the division is closed down, the said employee has to be absorbed in another grant in aid post/school. The said aspect could not be brought to the notice of this court and as such same is good ground for review. According to the learned counsel, the record clearly establishes that the petitioner was brought on partial grant in aid in the year 2005 and as such on closer of division, the petitioner had a right to be absorbed in another grant in aid school/post. The similarly situated employees have been absorbed by the Education Department.

2. Mr. Kazi, learned counsel further submits that Deputy Director of Education in its order dated 24.08.2015 has observed that the management did not allow the petitioner to join. However, in the order under review this court has observed that the petitioner on her own volition did not join the school. The same is not in consonance with the

record.

3. We had disposed of the writ petition under order dated 07.02.2018, basically, on the findings and the observations of this court in Writ Petition No. 4420 of 2009 decided under order dated 13.10.2011 and the order in Writ Petition No. 1872 of 2008. While disposing of the writ petitions, we have observed thus :

"3. The petitioner had an opportunity to join. Even orders of absorption were issued in favour of the petitioner, of course, on non grant in aid post, still the petitioner on her own volition did not join the school. There is no reason to disbelieve the office of the Education Officer. As far as claim of the petitioner that, in the year 2005, the petitioner had come on partial grant in aid basis, the same cannot be considered in view of the order in Writ Petition No. 4420 of 2009 dated 13th October, 2011. In the said writ petition, the present petitioner was respondent No. 4 and it has been clearly observed by this Court that the second division of 04th standard came to be closed in the year 2005 and the petitioner was appointed on second division of 04th standard and even the petitioner had filed earlier Writ Petition No. 1872 of 2008 in which also it was held that, the petitioner has been declared surplus in July 2005 and was on non grant in aid post and it was the management who was directed to pay salary and it was not the office of the Education Officer.

4. The learned counsel for the petitioner relies on rule of parity and submits that, another teacher who was appointed on non grant in aid post and who was appointed on same day the petitioner was appointed has been absorbed on grant in aid post. This argument of the petitioner cannot be considered in view of the orders passed by this Court in Writ Petition No. 4420 of 2009 dated 13.10.2011 and in Writ Petition No. 5105 of 2009 dated 08th September, 2011.

5. Considering the orders passed by the Deputy Director of Education, pursuant to the orders passed by this Court in earlier writ petition filed by the present respondent No. 5, we direct the respondent No. 4/Education Officer to take steps to absorb the petitioner in any other non grant in aid school expeditiously. The respondent No. 4 shall endeavour to verify vacant non grant in aid posts and pass order of absorption of the petitioner. The Education Officer shall conduct the said exercise within a period of six (06) months from today. The writ petition is accordingly disposed of. No costs."

4. In view of the findings of this court in the aforesaid petitions which have attained finality as on the date when the writ petitions were disposed of, and the fact that the said findings are binding on all the parties, the claim of the applicant/petitioner can not be considered.

5. In view of the above, Review Applications are disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

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