

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

Writ Petition No. 1639 of 2007

1) The Head Master,
Shri Vivekanand Vidya Mandir,
Primary School, Anand Nagar,
Beed, Taluka & District Beed.

2) The Secretary,
Shri. Sant Muktai Mahila
Prabodhan Mandal, Beed,
Taluka & District Beed.

.. Petitioners.

Versus

1) The State of Maharashtra,
Through the Secretary,
Department of Education
M.S., Mantralaya, Mumbai.

2) The Deputy Director of Education
Aurangabad Division, Aurangabad.

3) The Education Officer (Primary)
Zilla Parishad, Beed.

4) Tolan d/o Jagannath Karande,
Age 38 years,
Occupation : Service as
Assistant Teacher in
Shri. Vivekanand Vidya Mandir,
Primary School, Anand Nagar,
Beed,
R/o Nagar Road, Beed,
Taluka and District Beed.

.. Respondents.

Shri. R.S. Deshmukh, Advocate, for petitioners.

Smt. D.S. Jape, Assistant Government Pleader, for respondent Nos.1 and 2.

Shri. K.B. Jadhavar, Advocate, for respondent No.4.

**Coram: T.V. NALAWADE &
K.L. WADANE, JJ.**

Date: 8 MARCH 2018

JUDGMENT (Per T.V. Nalawade, J.):

1) The petition is filed for relief of quashing and setting aside the letters of respondent Nos.3 dated 2-7-2005 and 22-6-2007. The subsequent letter was added by making amendment. Both the sides are heard.

2) The submissions made and the record show that respondent No.4 had joined as untrained teacher with the petitioner in the year 1993. In the year 1998 Government made it compulsory for such teachers to complete D.Ed. Writ Petition No.6166 of 2004 was filed by present respondent No.4. Even direction was also given by this Court on 15-12-2004 to the respondent authority

to decide the representation filed by respondent No.4. One more writ petition like Writ Petition No. 3955 of 2003 was also filed and the said proceeding came to be decided on 20-4-2004. One Yuvraj More got benefit of the said litigation and direction was given to the management to submit proposal for giving him permanent post and accordingly from the year 1998 he was made permanent. In that proceeding present respondent No.4 was not party when she had joined the service prior to said More and she was better qualified as she had completed D.Ed. when said More had not completed that course.

3) In the petition which was filed by present No.4, bearing No.6166/2004 direction was given to take decision on her representation which was of similar nature. The Education Officer made necessary inquiry and made an order that present respondent No.4 was entitled to get the post and the said post could not have been given to aforesaid More, party of other writ petition. The Education Officer has further ordered to see that the salary to which present respondent No.4 is entitled is paid by the management as salary grant was released by the

Government and the salary was given to said More who was not entitled to. The Education Officer has taken decision that present respondent No.4 was senior to said More and also to others and it was necessary to submit proposal in respect of present respondent No.4 first.

4) In the present proceeding, learned counsel for the petitioners argued mainly on the procedure followed by Education Officer for making inquiry. He submitted that proper procedure was not followed and opportunity was not given to the management to have its say. The correspondence made and the order passed show that the management was avoiding to take decision. Further, this Court asked the learned counsel for the petitioners to show the record on the basis of which it can be said that the order of the Education Officer cannot sustain in law. There is no such record and on facts and merits to show that, the respondent No.4 was entitled to get that relief. It is clear that the petitioner management was supporting said More and due to that the previous order was made in favour of More. It was the mistake of the management that it had not pointed out that respondent No.4 was more

senior to More if there was no intention to support to More. In view of that circumstance the management need to bear the expenses in respect of the salary which needs to be paid on the basis of grant released by the Govern to respondent No.4. Thus there are no merits in the present matter. The petition stands dismissed. Rule discharged.

Sd/-
(K.L. WADANE, J.)

Sd/-
(T.V. NALAWADE, J.)

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