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

**WRIT PETITION NO.5736 OF 2017**

Somnath s/o Rajaram Ahire,  
Age: 49 years, Occ: Service as an  
Assistant Teacher in Punyaslkoshlok  
Ahilyadedvi Holkar College,  
Rani Savargaon, Tq. Gangakhed,  
Dist. Parbhani.

..PETITIONER

VERSUS

1. The State of Maharashtra,  
Through it's Secretary,  
School Education and Sports  
Department, Mantralaya, Mumbai-32.
2. The Deputy Director of Education,  
Aurangabad Division, Aurangabad.
3. The Education Officer (Secondary),  
Zilla Parishad, Parbhani.
4. Samajivi Samaj Kalyan Mandal,  
Rani Savargaon, Tq. Gangakhed,  
Dist. Parbhani, Through its  
Secretary.
5. Punyasloshlok Ahilyadevi Holkar  
Higher Secondary School, Rani  
Savargaon, Tq. Gangakhed,  
District Parbhani.
6. Little Flower Higher Secondary  
School, Parli Vaijinath,  
Dist. Beed Through its  
Principal.

..RESPONDENTS

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Mr Pratap G. Rodge, Advocate for petitioner;  
Mr S.S. Dande, A.G.P. for respondent/State;  
Mr G.S. Rane, Advocate for respondent Nos.4 and 5;  
Mr S.S. Dambe, Advocate for respondent No.6

**WITH**

**WRIT PETITION NO.8979 OF 2017**

Pandit s/o Ramrao Rathod,  
Age: 47 years, Occ: Service,  
As Junior Lecturer in  
Punyashlok Ahilyadedvi Holkar  
Junior College, Rani Savargaon,  
Tq. Gangakhed, Dist. Parbhani. ..PETITIONER

VERSUS

1. The State of Maharashtra,  
Through it's Secretary,  
School Education and Sports  
Department, Mantralaya, Mumbai-32.
2. The Deputy Director of Education,  
Aurangabad Division, Aurangabad.
3. The Education Officer (Secondary),  
Zilla Parishad, Parbhani.
4. The Education Officer (Secondary),  
Zilla Parishad, Beed.
5. The Secretary,  
Shramjeevi Samaj Kalyan Mandal,  
Rani Savargaon, Tq. Gangakhed,  
Dist. Parbhani, Through its  
Secretary.
6. The Principal,  
Punyashlok Ahilyadevi Holkar  
Junior College, Pangri Road,  
Rani Savargaon, Tq. Gangakhed,  
District Parbhani.

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7. The Principal,  
Vaidyanath Junior College,  
Parli (Vaijinath),  
Dist. Beed.

..RESPONDENTS

Mr Pratap G. Rodge, Advocate for petitioner;  
Mr S.S. Dande, A.G.P. for respondent/State;  
Mr G.S. Rane, Advocate for respondent Nos.5 and 6;  
Mr V.V. Bhavthankar, Advocate for respondent No.7

**CORAM : PRASANNA B. VARALE &  
MANISH PITALE, JJ.**

**DATE : 19th OCTOBER, 2018**

**ORAL ORDER :**

The petitioners are before this Court challenging the order passed by the Deputy Director of Education, Aurangabad Division, Aurangabad dated 3<sup>rd</sup> April, 2017. By the said order, these two petitioners are declared surplus. Petitioner Ahire is at Serial No.5, whereas petitioner Rathod is at Serial No.1.

2. The submission of Mr. Rodge, learned Counsel appearing for the petitioners is, these petitioners are senior most teachers in the school.

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They are teaching subjects Psychology and Hindi respectively. Learned Counsel Mr. Rodge submits that during pendency of the petition, on 27<sup>th</sup> April, 2017, while issuing notice, the Division Bench of this Court directed the parties to maintain the *status quo*. He submitted that in spite of order passed by this Court granting status quo, Deputy Director of Education, Aurangabad Division, Aurangabad passed order on 14<sup>th</sup> June, 2017 and the petitioner Ahire was directed to be absorbed in another school namely Little Flower, Higher Secondary School, Parli Vaijinath, District Beed. He immediately submitted the representation to the Deputy Director of Education on 27<sup>th</sup> June, 2017 apprising the said authority that the order of the grant of status quo passed by this Court is still in operation and subsequent order passed by the Deputy Director dated 14<sup>th</sup> June, 2017 is contrary to the order of this Court dated 27<sup>th</sup> April, 2017 and this order is unsustainable.

3. Mr. Rodge, learned Counsel appearing for

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the petitioners submits that Deputy Director of Education, Aurangabad Division, Aurangabad passed order on 14<sup>th</sup> June, 2017 and the petitioner Rathod was directed to be absorbed in another school namely Vaidyanath Junior College, Parli Vaijinath, District Beed. He immediately submitted the representation to the Deputy Director of Education on 4<sup>th</sup> July, 2017 apprising the said authority that due to some dispute between management and Principal, he has not joined in the said school. Again on 7<sup>th</sup> July, 2017 the petitioner Rathod by communication to Deputy Director of Education, Aurangabad Division, Aurangabad informed that Principal is on leave and nobody responsible person is there to join him due to dispute between management.

3. It was also submitted before the Deputy Director of Education that with this protest, the petitioner approached to Little Flower Higher Secondary School, Parli Vaijinath, District Beed so as to join the said school but there was no

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response from the school and the said school expressed its inability to join the petitioner raising grounds of certain technical difficulties. Learned Counsel for the petitioners also invited our attention to the communication forwarded by the said school i.e. Little Flower Secondary and Higher Secondary School, Parli Vaijinath, District Beed. This communication is dated 3<sup>rd</sup> July, 2017 and it is informed to the Deputy Director that the said school is unable to join the petitioner as subject political science is not available in the school.

4. Learned Counsel submitted that the petitioners were dragged in a peculiar situation wherein the they were relieved from earlier school and were not permitted to join in subsequent school. Thus, the petitioners were neither having any work nor were having salary for this period. The petitioner Ahire again approached Deputy Director of Education by submitting representation bringing to the notice of the said authority all these facts.

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5. Perusal of other documents placed on record show that the Deputy Director of Education in view to decide the representation of the petitioners called upon the Secretary of Shramjeevi Samaj Kalyan Mandal, Rani Savargaon, headmaster of the earlier school Punyashlok Ahilyadevi Holkar Junior College, Rani Savargaon, Taluka Gangakhed, District Parbhani and petitioners, hearing was scheduled on 18<sup>th</sup> August, 2017.

6. Mr. Rodge, learned Counsel submits that the petitioners attended hearing and the matter is pending before the authority namely Deputy Director of Education till date for his decision.

7. Learned A.G.P. by inviting our attention to the document placed on record dated 30<sup>th</sup> July, 2017 submitted that on earlier hearing fixed by Deputy Director of Education dated 25<sup>th</sup> July, 2017 representative of the institute and head master failed to attend the hearing, as such, meeting

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could not proceed further and the Deputy Director thought it fit to grant one more opportunity to the parties and scheduled hearing on 18<sup>th</sup> August, 2017.

8. Mr. Rane, learned Counsel appearing for respondent Nos. 4 and 5 in W.P. No.5736 of 2017 and for respondent Nos. 5 and 6 in W.P. No.8979 of 2017 submitted that the respondents could not receive notice issued by the Deputy Director of Education about hearing of the matter, as such, they were not able to attend the hearing. Mr. Rane, learned Counsel, on instructions, submits that the respondents are ready to appear before Deputy Director of Education for hearing and to submit their say in the matter.

9. Mr. Rane, learned Counsel, on instructions, raised point that though initially the petitioners were not permitted to join in absence of work load but the petitioners were subsequently permitted to attend on 11<sup>th</sup> October, 2017 and they are being paid salary. Statement to

that effect is also made in the affidavit.

10. Mr. Rodge, learned Counsel appearing for the petitioners admits this factual situation. He submits that though petitioners joined in view of the order given, they are deprived of the salary for the period from July to October, 2017.

11. We are of the opinion that a the Deputy Director is hearing the matter and even opportunity of hearing was granted by the Deputy Director to the parties, the last date of hearing was 18<sup>th</sup> August, 2017. It is submitted before this Court that subsequent to 18<sup>th</sup> August, 2017 though the dates were given for hearing, the matter could not proceed before the Deputy Director.

12. Considering all these aspects, we are of the opinion that the petitions can be disposed of by directing the Deputy Director of Education, Aurangabad Division, Aurangabad to decide the representation of the petitioners and pass

appropriate orders, needless to state on merits, by giving opportunity for hearing to the parties.

13. The parties submits before this Court that if fixed date is given, they would appear before the Deputy Director of Education, Aurangabad Division, Aurangabad and extend their co-operation to the said authority to decide the matter.

14. In view of submission of the Counsel for the petitioners and the respondents, we direct the Deputy Director of Education, Aurangabad Division, Aurangabad to hear the parties on 2<sup>nd</sup> November, 2018. If the parties requests for any further hearing or submission of the documents in support of their say, such opportunity be granted to the parties. The Deputy Director of Education to decide the representations and grievance raised by the petitioners as early as possible and not later than ten weeks from the date of the order of this Court.

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15. Mr. Rodge, learned Counsel submits that as the petitioners claimed that they are senior most teachers in the school, the Deputy Director of Education to decide the issue of seniority also.

16. The petitions are accordingly disposed of.

**(MANISH PITALE)**  
**JUDGE**

**(PRASANNA B. VARALE)**  
**JUDGE**

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