

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

929 CONT. PETITION NO. 437 OF 2017
IN WRIT PETITION NO.10249 OF 2016

Rohini d/o Yuvraj Patil,
Age : 32 years, Occu : Household,
R/o : Plot No. 15, Vinod Nagar,
Deopur, Dhule,
Tal & Dist. Dhule

...Petitioner

Versus

- 1] Pravin Shridhar Patil
Age : 50 years, Occu : Service as
Education Officer (Secondary)
R/o : Plot No. 57, Paris Park,
Near Deshmukh Nagar, Yawal Road,
Tal. Chopda, Dist. Jalgaon.
- 2] Jayprakash Shaligram Patil,
Age : Major years, Occu: Service,
as Education Officer (Secondary)
R/o: Plot No.105, Gulmohar Housing
Society Near Adhar Nagar, Dhule,
Tal & Dist. Dhule.
- 3] Mohan Shashikant Desale
Age : Major years, Occu: Service,
as Education Officer (Secondary)
R/o: Office at : Zilha Parishad, Dhule,
Tal & Dist. Dhule.
- 4] Kunal Rohidas Patil,
Age : 32 years, Occu: Chairman,
R/o: Shri Shivaji Vidya Prasarak Sanstha,
Dhule, Tal & Dist. Dhule.

- 5] Nanabhau Pundalik Deore,
Age : 50 years, Occu: Principal,
R/o: Chhatrapati Shivaji High School &
Junior College, Dhule,
Tal & Dist. Dhule. ...Respondents

Mr. S.P. Brahme and Mr.S.B. Bhosale, Advocates for Petitioner

Respondent No.1 served

Mr. N.N. Desale, Advocate for Respondent No.2

Mr. G.R. Sayed. Advocate for Respondent No. 3

Mr. P.G. Deshmukh h/f Mr. Y.P. Deshmukh, Advocate for Respondent
Nos. 4 and 5

**CORAM : P.B.VARALE AND
MANISH PITALE, JJ.**

DATE: 23rd AUGUST, 2018

ORAL JUDGMENT (Per P.B. VARALE, J.) :-

1. Heard the learned counsel appearing for the petitioner. The petitioner before this Court is submitting that the order passed by this Court dated 27th February, 2017 in Writ Petition No. 10249 of 2016 is not complied with. As such, the action be initiated against the respondents for committing contempt of the order of this Court. A perusal of the order dated 27th February, 2017 placed on record at Exhibit "B" shows that it was the submission of the petitioner that the father of petitioner was an Assistant Teacher with respondent Nos. 3 and 4. Respondent No. 3 is

the institute, running a school namely, Chhatrapati Shivaji High School and Junior College at Dhule i.e. respondent No. 4. The father of the petitioner expired on 02.08.2011 while he was in service. The petitioner, who was possessing the requisite qualification as a M.A. B.Ed submitted an application for seeking appointment on compassionate ground. The petitioner is married daughter. It was her grievance that in spite of her request to the respondents to forward the proposal and to take appropriate decision, no heed was paid to her grievance. It was submitted that even the married daughters can put their claim for compassionate appointment and this is the policy of the State Government reflected in Government Resolution dated 27th February, 2013 as well 17th November, 2016. While considering the grievance of the petitioner, the Division Bench also referred to the submissions of the learned counsel appearing for the employer. It was submitted before this Court that the employer had prepared waiting list of the eligible candidates and the petitioner was placed at Sr. No. 22 in the list. On the backdrop of this submission, the Division Bench found that though it is submitted by the employer that the seniority list is

prepared, the Education Officer has not prepared any such seniority list. As this exercise was not undertaken by the Education Officer, the Division Bench thought it fit to dispose the petition with directions to respondent Nos. 3 and 4 to process the matter of the petitioner. The Division Bench directed the Education Officer to undertake the exercise within stipulated period of one month from the date of order and directed respondent No. 3 and 4 to process the matter of petitioner within one month and the Education Officer was directed to take decision within two months thereafter. Learned counsel for the petitioner submitted that, in spite of their representations made to the authorities namely, the Principal of the College and the Education Officer (Secondary), the matter is still pending for consideration.

2. Learned counsel Mr. Deshmukh, appearing for respondent No. 5 submits that the part compliance expected of from respondent Nos. 4 and 5 in the present Contempt Petition is already undertaken. By inviting our attention to the affidavit in reply, Mr. Deshmukh submits that the Education Officer is apprised of the factual position

namely, the claim of similarly situated persons put up before the institute. Our attention was invited to the documents placed on record along with the affidavit in reply i.e. Exhibit "A-1" with the communication addressed to the Education Officer (Secondary), a list of the persons taking their claim for appointment under the appointment on compassionate ground. The perusal of the said list shows that there are as many as 21 persons, who are seeking the appointment on compassionate ground and the petitioner is placed at Sr. No. 20 in the said list prepared by respondent Nos. 4 and 5. Annexure Exh."A-1" too shows that the respondent-institute is already having surplus employees of teaching and non-teaching staff in tabular form in communication also states about the position in various schools run by the institute. It is stated in the communication further that the petitioner is having academic qualifications of M.A. B.Ed., but, there is no post available with the institute so as to accommodate the petitioner in view of her academic qualifications. Mr. Deshmukh then invited our attention to the reply and submitted that the Education Officer called upon the parties for hearing on two occasions. The employer-institute

appeared before the Education Officer on both these occasions and furnished the necessary documents. Thus, it is submission of Mr. Deshmukh that the order of this Court is complied with by respondent Nos. 4 and 5 in letter and spirit and in view of the factual position that no post is available with the institute, respondent Nos. 4 and 5 are unable to accommodate the petitioner. From the perusal of reply filed by respondent Nos. 4 and 5, it further reveals that a list is submitted to the Education Officer within a stipulated period of one month and the exercise which was to be taken by the Education Officer is yet not completed by the Education Officer. Considering the fact that the Division Bench of this Court was pleased to direct the Education Officer to prepare the seniority list and considering the fact that there is no post available with respondent Nos. 4 and 5, in our opinion, the only course open is to direct the Education Officer to complete the exercise of preparation of the seniority list as directed by this Court. The Education Officer thus, is hereby directed to prepare the seniority list within two weeks from today, without fail. The petitioner may put up her claim as and when any vacancy is available with respondent Nos. 4 and 5. If claim is made by the

petitioner on falling the vacancy, the claim be considered as per the merits of the petitioner and considering the seniority list so prepared by the Education Officer as directed by us. The learned counsel for the petitioner submits that the petitioner be granted an opportunity of hearing before the Education Officer at the time of finalizing the seniority list. If such request is made to the Education Officer, the Education Officer shall accordingly grant the opportunity of hearing to the petitioner. As we find that there is no willful disobedience on the part of the respondent Nos. 4 and 5 and they have complied with the part of directions issued to them in a stipulated period. As it is submitted before us that respondent Nos. 1, 2 and 3 were occupying the position as Education Officer (Secondary) at the relevant time and now one Shri Pravin Vasant Ahire is the Education Officer (Secondary), Zilla Parishad, Dhule, we direct Shri Pravin Vasant Ahire, Education Officer (Secondary), Zilla Parishad to undertake the exercise of preparation of the seniority list within two weeks from today. Within 4 weeks if the petitioner is praying for opportunity of hearing, she must approach the Education Officer with the request within one week from today.

3. With these directions, contempt petition is disposed of.

(MANISH PITALE, J)

(P.B.VARALE, J)

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