

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11119 OF 2017

Jamil Ahmed Aziz Ahmed Pathan .. **Petitioner**

Versus

The State of Maharashtra and others .. **Respondents**

Shri Y. M. Khan, Advocate for the Petitioner.

Shri S. G. Karlekar, A.G.P. for Respondent Nos. 1 and 2.

Shri Eknath P. Sawant, Advocate for Respondent No. 3.

**CORAM : S. V. GANGAPURWALA &
SUNIL K. KOTWAL, JJ.**

DATE : 4th July, 2018

PER COURT :

1. The petitioner seeks direction to absorb the petitioner on the post of art teacher in the Pay Band and Grade Pay of trained teacher with effect from 01.03.2009.
2. The petitioner is given the benefit of a trained teacher pay scale from the year - 2015. The petitioner seeks the said benefit from the year - 2009.
3. Learned counsel for the petitioner submits that the

qualification of Art Teachers Diploma is a qualification of a trained art teacher. The learned counsel submits that the said course is of two years diploma. According to the learned counsel, the other Zilla Parishads have considered the same and similarly situated employees who have got Art Teacher Diploma qualification have been given benefit of trained teacher. The petitioner is not extended the said benefit. The learned counsel submits that the same amounts to discrimination.

4. Learned counsel for the respondent - Zilla Parishad submits that Art Teacher Diploma qualification is not a trained teacher qualification as it is not of two years. Earlier also the petitioner has filed writ petition bearing Writ Petition No. 7699 of 2013. Civil Application No. 10006 of 2014 was filed wherein initial relief granted was vacated and the court observed that the applicant therein i.e. the petitioner herein is having the Diploma in Art Drawing Teacher, which is of one year duration and the same cannot be termed as Diploma in Special Education and does not come within the qualification of a trained teacher. Thereafter, the petitioner withdrew the writ petition without any

liberty. Again subsequently, one more writ petition was filed bearing Writ Petition No. 11671 of 2015. This court directed the Chief Executive Officer to take decision on the application of the petitioner. Accordingly decision is taken.

5. When the petitioner had earlier filed a writ petition bearing no. 7699 of 2013 and in interim application this court came to the conclusion that the said benefit cannot be extended to the petitioner and thereafter the petitioner withdrew the writ petition without any liberty, the same ground cannot be re-agitated by way of fresh writ petition. The withdrawal of writ petition without liberty amounts to dismissal. The said issue again cannot be re-considered.

6. In the view of above, writ petition is disposed of. No costs.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]

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