

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

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.

Mrs. M. A. Deshpande, Addl.G.P. for Respondent Nos. 1 to 3.

Shri Deelip Patil Bankar, Advocate for the Respondent No. 4.

Shri S. V. Warad, Advocate for Respondent Nos. 5 and 6.

Shri S. V. Gundre, Advocate for the Respondent No. 7.

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

DATE : 07TH FEBRUARY, 2018.

FINAL ORDER :

. The petitioner was declared surplus and the factum of petitioner having been declared surplus is confirmed in the order of this Court in Writ Petition No. 4420 of 2009 dated 13th October, 2011, so also in view of the order of this Court in Writ Petition No. 1872 of 2008 dated 08th September, 2008, the petitioner was never appointed on grant in aid post. At the most the petitioner could have claimed absorption on non grant in aid post. According to the petitioner, the communication of the Education Officer was never received to the petitioner.

2. Absorption orders were issued asking the petitioner to join the school. Earlier two schools had refused to allow petitioner to join. Thereafter, Education Officer took steps to see that the petitioner joins in his presence. On 13.09.2011 Education Officer has communicated the factum of the petitioner remaining absent to join. The details are given by the Education Officer saying that he was present even Head Mistress of the School run by Johar Education and Welfare Society Aurangabad namely Khairul Mominit Urdu Primary School Rahemaniya Colony, Kiradpura, Aurangabad was present and was ready to absorb the petitioner. However, the petitioner did not join. The husband of the petitioner responded by saying that, the petitioner is out of station and he would take advice of lawyer and further stated that, she would not join.

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.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/Feb. 18