

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

WRIT PETITION NO. 11573 OF 2015

Ahmednagar District Backward Class
O.B.C. Minority Teaching and
non-teaching Employees Union,
Ahmednagar & others

...Petitioners

Versus

Dnyandeep Gramin Vikas Sanghtana, Kashti,
Tq.Shrigonda, Dist. Ahmednagar
and others

...Respondents

Mr.L.V.Sangeet, Advocate for Petitioner
Mr.S.G.Karlekar, Advocate for Respondent
Nos. 2 to 4
Mr.P.V.Barde, Advocate for Respondent Nos. 1, 5 and 6

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

DATE: APRIL 12, 2018

PER COURT :

1. Heard Mr.Sangeet, the learned counsel for the petitioners, Mr. Barde, learned advocate for the respondent Nos. 1, 5 and 6 and the learned A.G.P. for respondent Nos. 2 to 4.

2. The grievance of the petitioners is that the

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respondents are not granting promotion to the petitioner Nos. 2 and 3 on grant-in-aid post as Head Master. The petitioners have assailed the order dated 30th July, 2015 passed by the Deputy Director of Education. The impugned order states that the petitioner Nos. 2 and 3 be granted the deemed date promotion as Head Master, but without any monetary benefits.

3. According to Mr.Sangeet, the learned counsel, the Society was running 12 schools. 33% posts of the Heads are to be reserved for Assistant Teachers from reserved category. The respondents have not promoted petitioner Nos. 2 and 3 though they are eligible. The letters are filed by the respondents to show that the petitioners earlier had refused to accept the promotional posts but the same are obtained by coercion from the petitioners and the respondents now want the petitioners to accept the post of Head at an unaided school. The petitioners are senior and they are entitled to be promoted as Heads of the aided School. One vacancy could arise for the post of Head in grant-in-aid school on 1st June, 2018.

4. Mr.Barde, learned advocate for the respondents

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submits that time to time, petitioner Nos.2 and 3 were given orders of promotion as Head. Since 2001, these petitioners are given orders of promotion as Head Masters, but each time, they refused to join and accept the post of Head Master. According to the learned counsel, the petitioner Nos. 2 and 3 are blowing hot and cold. After having been issued appointment order as Head Masters the petitioners refused to accept the post and now are turning around and contending otherwise. According to the learned counsel, even during the pendency of the petition, the respondents had offered petitioners the post of Head Master, but they did not join. The petitioners cannot blame the institution for the same.

5. This court under order dated 29th September, 2017, had directed the Deputy Director of Education to hold an appropriate enquiry and submit report to this court. The Deputy Director of Education has submitted the report to this Court. The report states that the post of the Head as per the reservation, is not filled in. The report also further states that these petitioners were offered the post of Head Masters, but they had refused and they also recorded the statement and it appears that there was no coercion upon

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the employees. In wake of the report given by the Deputy Director of Education, we need not enter into the debate now about the letters of the petitioners obtained by coercion or otherwise.

6. Rule 9(10)(a) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 mandates that 33% posts of the Heads and Assistant Heads are to be reserved and the percentage of reservation is delineated in Sub Rule (10) of Rule 9 of MEPS Rules. Each and every institution has to adhere to the same.

7. It is stated that on 1st June, 2018, one vacancy of the Head of the school would occur in grant-in-aid school. One of the petitioners can be accommodated as per the roster fixed for the Head of the School. The respondent-institution shall accommodate one of the petitioners in the vacancy that would arise on 1st June, 2018 in grant-in-aid school and the moment any vacancy arises of the Head Master of the other school, another petitioner be accommodated.

8. With regard to the deemed date, the Deputy Director of Education shall consider the case of the petitioners for the

deemed date. In the affidavit filed by the Deputy Director of Education, it is stated that he has already instructed to give deemed date to the petitioner Nos. 2 and 3. The Education Officer shall pass specific order in this regard.

9. With these observations and directions, writ petition stands disposed of. No costs.

(A.M. DHAVAL, J.)

(S.V.GANGAPURWALA, J.)

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