

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

12 WRIT PETITION NO. 9805 OF 2016

GURUDEV SHIKSHAN SANSTHA MUKHED THROUGH ITS
SECRETARY AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Panpatte V.S.
AGP for Respondent Nos 1 & 2 : Mr. S.G. Karlekar
Advocate for Respondent No. 3 : Mr. Kadam Nitin S.

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

DATE : JULY 19, 2018

O R D E R :

Initially, the writ petition is filed for declaring the petitioner nos. 3 to 6 as surplus teachers. Subsequently, by way of amendment, the order dated 28.11.2017 passed by the Director of Education (Primary) is assailed.

2. Mr. Panpatte, learned counsel for the petitioner submits that the posts are admissible as per the provisions of Right to Education Act and the

Government Resolution, dated 28.8.2015 and the Government Resolution dated 13.12.2013. According to the learned counsel, the strength of the students has also been verified by the Education Officer from time to time and the same is placed on record. The posts admissible are much more than what has been sanctioned. The Director of Education has failed to consider the strength of the students.

3. The learned counsel further submits that the Headmaster has committed mistake while mentioning that there are only 35 class rooms available, but subsequently has corrected the mistake and communicated that 40 class rooms are available. According to the learned counsel, the impugned order with regard to sanction of staff is also erroneous.

4. Mr. Karlekar, learned A.G.P. submits that the sanction of staff is on the basis of strength of students, so also availability of class rooms. The

Headmaster had communicated that there are only 35 class rooms. As such, there cannot be 40 sanctioned posts of teachers. The same is in consonance with clauses 2.2.3 of Government Resolution dated 28.8.2015.

5. We have considered submissions.

6. The sanctioned strength is approved by the Education Officer as filed on record. The Government Resolution dated 13.12.2013 and 28.8.2015 are on the basis of Right to Education Act.

7. Clauses 2.1, 2.2 and 2.7 of the Government Resolution dated 28.8.2015 would be relevant. The strength of the students would play pivotal role in determining admissibility of posts, so also availability of the class rooms. It is submitted that the Headmaster had initially committed mistake. Thereafter he has corrected it and has

represented that there are 40 Class Rooms available. Naturally, the Director of Education requires to consider the same.

8. To remove the anamoly, we direct that the office of the Director of Education shall conduct inspection of the School and shall verify the availability of the class rooms. It shall also consider the strength of the students as approved by the Education Officer from time to time and thereafter take the decision with regard to the sanction of the posts by considering the Government Resolution dated 13.12.2013 and 28.8.2015 and the Clauses as referred (supra).

9. The office of the Director of Education shall conduct inspection of the school so as to verify availability of class rooms within the period of one month from today and thereafter take the decision about the sanction of the posts within the

period of three months thereafter.

10. The petitioner institution is entitled to place on record before the Director of Education the relevant documents necessary for determination of sanction of posts.

11. While passing the order afresh, the impugned order would not be an impediment and same shall be independently passed considering the availability of class rooms and strength of students as per the Government Resolutions.

12. Writ petition is disposed of. No costs.

[**SUNIL K.KOTWAL, J.**] [**S.V.GANGAPURWALA, J.**]

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