

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

**WRIT PETITION NO. 10559 OF 2014
WITH WP/8094/2014**

**THE PRINCIPAL, BAHIRJI SAMRAK MAHAVIDYALAYA, HINGOLI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.V.D.Sapkal, Advocate for the petitioner
Mr.Pradeep Deshmukh, Advocate h/f Mr.Yashodeep P.
Deshmukh, Advocate for respondent No.4
Mr.N.T.Bhagat, AGP for the respondent/State

**CORAM : S.V. GANGAPURWALA &
S.M.GAVHANE, JJ.**

DATED : 28.08.2018

P.C. :-

. The petitioner in writ petition No.8094 of 2014 assails the advertisement issued by respondent No.4 Bahirji Samrak Mahavidyalaya. The petitioner-Mr. Somwanshi in writ petition No.8094 of 2014 was appointed as an Assistant Professor in the subject of History with Bahirji Samrak Mahavidyalaya. In the year 2004 he was declared as surplus and also absorbed in Maharashtra Udaygiri Mahavidyalaya, Udgir. It is submitted that in the meantime he acquired necessary qualification. In 2011 one post became vacant with Bahirji Samrak Mahavidyalaya. The impugned advertisement was issued. However, the

Joint Director stopped the recruitment process and issued letter dated 06.09.2014 restraining the University from assigning the selection committee for the post to be filled in, as Mr. Somwanshi had sought repatriation. The said letter dated 06.09.2014 is assailed by the petitioner-Bahirji Samrak Mahavidyalaya in writ petition No.10559/2014.

2. We have heard learned counsels appearing for the respective parties.

3. It is accepted by all the parties that Mr. Somwanshi is now an Associate Professor. The post advertised by the petitioner in writ petition No.10559/2014 is for Assistant Professor. We had asked the learned AGP to clarify about the availability of the post with Maharashtra Udaygiri Mahavidyalaya, Udgir so also Bahirji Bahirji Samrak Mahavidyalaya. The Joint Director of Higher Education, Nanded Division, Nanded has filed affidavit clarifying that one vacant post in the History subject is existing in Maharashtra Udaygiri Mahavidyalaya, Udgir.

4. Mr. Somwanshi, since 2004 was working with

Maharashtra Udaygiri Mahavidyalaya, Udgir till the impugned order was passed. It is clear that the post of History subject is available with Maharashtra Udaygiri Mahavidyalaya, Udaygiri as per the affidavit filed by Joint Director of Higher Education, Nanded and further it is contended that at Bahirji Samrak Mahavidyalaya the post of only Assistant Professor is admissible and the same is for OBC category whereas Mr. Somwanshi belongs to open category. In the light of above, we pass the following order.

ORDER

I. The petitioner shall be allowed to work with Maharashtra Udaygiri Mahavidyalaya, Udgir.

II. The communication dated 06.09.2014 stands set aside.

III. The service of the petitioner during period should be considered for the purpose of continuity. The period from the date Mr. Somwanshi was relieved till his joining shall be considered for continuity in service.

IV. As we have granted continuity in service, said period should be counted for all further consequential benefits.

V. With the aforesaid directions the petitioner in Petition No.10559/2014 may proceed with selection process in accordance with law.

VI. The parties in writ petition No.10559/2014 may take further steps for the selection process for the post of Assistant Professor in the History subject.

VII. Accordingly the writ petitions stand disposed of.

[S . M . GAVHANE , J .]

[S . V . GANGAPURWALA , J .]