

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.10070 OF 2017**

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|--------------------------------|-----------------|
| Mrs.Swati Navman Sadarao       | ... Petitioner  |
| V/s                            |                 |
| Social Service League and ors. | ... Respondents |

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Mr.N.V.Bandiwadekar i/by Mr. Sagar Mane for the Petitioner.  
Mr.R.J.Dhond for Respondent Nos.1 and 2.  
Ms.Vaishali Nimbalkar, AGP for Respondent Nos.3 and 4.

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**CORAM : S.C.GUPTE, J.  
DATE : JUNE 21, 2018.**

**P.C. :**

1. Heard learned counsel for the parties and the learned AGP for the State. This Petition challenges a judgment and order passed by the Presiding Officer of School Tribunal at Mumbai in an appeal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. The subject matter of challenge before the School Tribunal was the termination of the Petitioner, who was appointed as a Shikshan Sevak and had completed 30 months of probation. It was the grievance of the Petitioner that she was appointed in a reserved post (SBC category) ; she was qualified for the post and

belonged to SBC category and appointed as Shikshan Sevak after duly conducting selection process in accordance with the law; her proposal was forwarded for approval of Respondent No. 3, who granted approval for a period of 36 months. It was her grievance that though her work was satisfactory during the probationary period, by an order dated 28<sup>th</sup> September 2016, Respondent No.2-Head Mistress terminated her services as Shikshan Sevak. The order was purportedly on the ground that there was a reduction of sanctioned posts and as a result she had become surplus. The School Tribunal rejected her contention that her services were terminated by the Head Mistress. The Tribunal held that the management had supported the act of the Head Mistress in terminating the services of the Petitioner. After perusal of the staff approval schedule, the Tribunal was of the view that the termination of the services on the ground that the teacher had become a surplus teacher on account of reduction of sanctioned posts was proper.

2. It is submitted by the learned AGP for the State that the staff pattern shows that as against 26 sanctioned posts, 35 teachers were working with the Respondent school. It is an

admitted position that the staff approval schedule referred to by the learned AGP is of the year 2017-18. The management submits that as of the year 2018-19, there are clear vacancies on account of retirement of teachers in the school. The management also submits that even as on date, there is a vacant reserved post for SBC Category; that a Post of Mathematics and Science teacher has become vacant and the petitioner fulfills the qualification for that post; and that it has no objection to absorb the petitioner in that post with effect from 2<sup>nd</sup> July 2018, and continue the petitioner as an Assistant Teacher provided she completes the deficient period of her probation. The petitioner is agreeable for this and offers to forgo her claim for back wages.

3. In the premises, the impugned order of the School Tribunal is quashed and set aside. The Petitioner's termination by the order dated 28<sup>th</sup> September 2016 is set aside. The Petitioner, however, gives up her claim for back wages. The Petitioner also accepts that there is a deficiency in her probationary period of three years and that she will duly complete her probationary period after her reinstatement.

4. As far as approval of the Education Department to the post

of Assistant Teacher is concerned, it will be open to the Department to take an appropriate decision in that behalf after finalization of staff approval pattern for the year 2018-19.

5. All the parties to act on the authenticated copy of this order.

( S.C.GUPTE, J. )