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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.2658 OF 2012

Mhasu Raghunath Avhad Petitioner.

V/s

State of Maharashtra through
Secretary School Education
Department and others Respondents.

Mr. Shaikh Nasir Masih a/w Mr. Vishal K. Jagwani i/by M/s. Shaikh
Nasir Masih & Associates, Advocate for the Petitioner.

Ms. Uma Palsuledesai, AGP for Respondent Nos.1 to 3 – State.

Mr. Siddhartha R. Ronghe a/w Mr. R. A. Naik, Advocate for
Respondent Nos.4 and 5.

**CORAM: B. R. GAVAI &
SMT. BHARATI H. DANGRE, JJ.**

DATE: 19th APRIL, 2018

ORAL JUDGMENT: (Per Smt. Bharati H. Dangre, J.)

1] Rule. Rule is made returnable forthwith. Heard by consent of parties.

2] Petitioner has approached this Court, seeking direction to the

Respondents to implement the decision of the Deputy Director of Education, in pursuance to the Order dated 15/10/2008 passed by this Court.

3] The Deputy Director of Education, by the said Order, on consideration of the directions, noted the statements on behalf of the Management that, subsequent to the Petitioner, there were 13 trained teachers, who came to be appointed and their proposals were forwarded and the appointments were approved. It was only the Petitioner, whose proposal was not forwarded, though he was appointed on the post of Assistant Teacher with effect from 01/07/1994. It is the specific case of the Petitioner that on the date of his appointment, he was possessing requisite educational qualification of B.Ed. and his main subject was “Economics” alongwith “Marathi” and “Geography” as general subjects. In view of the statement that was made during the course of hearing before the Deputy Director of Education, Deputy Director of Education considered the entire issue and directed that the Petitioner is entitled to be absorbed from the date on which the post in the Cadre of Trained Graduate Teachers is available. A direction was therefore

issued that, from the said date on which the said post becomes available, the Petitioner should be granted approval.

The Petitioner has thus approached this Court being aggrieved by the non-implementation of the said order.

4] The learned Assistant Government Pleader would submit that, the statement that was made by the Management before the Deputy Director of Education on 21/02/2009 was an incorrect statement and, in fact, there were only six teachers, who were appointed subsequent to the Petitioner. Even an attempt is made on the part of Respondents to demonstrate that the said information supplied was not correct.

On consideration of the issue, it is apparent that even if there may not be 13 teachers who were appointed subsequent to the Petitioner, the learned Assistant Government Pleader would admit that, there were six teachers who were appointed subsequent to the Petitioner in the Cadre of Trained Graduate Teachers and whose proposals were forwarded and the Deputy Director of Education has specifically issued a direction that the Petitioner should be absorbed

and granted approval from the date on which the post in the Cadre of Trained Graduate Teachers becomes available. The direction is very clear in view of the statement of facts which is recorded by the Deputy Director of Education by giving details of the other teachers who have been appointed and also considering their qualification and dates of appointment.

5] In such circumstances, it is clear that Education Officer has not implemented the order passed by the Deputy Director of Education in pursuance of the order passed by this Court in Writ Petition No.1455 of 2008.

6] Petition therefore deserves to be allowed by directing Respondent No.3 to immediately take decision in terms of the directions issued by the Deputy Director of Education and grant approval to the Petitioner from the date on which the vacancy in the Cadre of Trained Graduate Teachers has become available subsequent to the date of appointment of the Petitioner within four weeks from today. It is needless to state that the Petitioner would also be granted all consequential benefits flowing from such placement in the Cadre of

Trained Graduate Teachers in terms of the aforesaid directions. Petitioner is also held entitled for arrears accruing from such placement and such arrears be cleared within a period of three months from today.

7] Rule is made absolute in the aforesaid terms.

(SMT. BHARATI H. DANGRE, J.)

(B. R. GAVAI, J.)