

IN THE HIGH COURT OF JUDICATURE AT BOMBAYNAGPUR BENCH : NAGPUR**WRIT PETITION NO. 5479 OF 2016.****(Mrs. Gita Ganesh Babhre .vs. The State of Maharashtra & others)**

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr. V.T. Bhoskar, Advocate for petitioner,
Ms. N.P. Mehta, A.G.P. for respondent nos. 1 to 3.
Ms. S.W. Deshpande, Advocate for respondent nos. 4 & 5.

CORAM : B.P. DHARMADHIKARI & MRS. SWAPNA S. JOSHI, JJ.

DATED : FEBRUARY 6, 2018.

1] Heard for sometime.

2] Petitioner submits that as per policy decision taken on 18.8.2004 two posts of Instructors become admissible for every batch of 25 students. As at the time of recruitment of petitioner number of students was 60, the post for petitioner, i.e. 5th post was open and available. However, claim for recruitment and approval has not been looked into by respondent nos. 2 & 3 till date.

3] Ms. S.W. Deshpande, the learned Counsel for respondent nos. 4 & 5/employer, invites attention to reply affidavit. She submits that in the year 2004-05 in fact number of students taking education increased from 57 to 74. According to her, going by average of one instructor for every batch of 12 students, for 74 students minimum six instructors were admissible in year 2004 and hence, employment of petitioner needed to be approved.

4] The reply filed by respondent nos. 1 to 3 does not deal with aspect of number of students or then contention that at least six

posts of instructors or then the 5th post of instructor became admissible as number of students exceeded 50. The reply filed by respondent nos. 1 to 3 in fact is conspicuously silent about number of students taking education with the respondent no.4 & 5.

5] On 21.9.2004 the staffing pattern has been decided and in it at page 27 number of students mentioned is 60 while admissible posts of instructors are shown as four. This communication dated 21.9.2004 has been questioned in present matter.

6] If the assertion of management that strength has gone upto 74 is correct, as two posts are admissible for every batch of 25 students, the department will have to consider whether 5 or 6 posts become admissible to respondent nos. 4 & 5. In any case, why a single instructor has not been permitted for every group of 12 specially-abled students and why together two instructors are put is not clear. If there is any logic in this, for permitting the strength of students in excess of 50, again that logic may require consideration.

7] Here the petitioner as also management are seeking time to place on record further events. We are not inclined to adjourn the matter as it is pending before this Court since July, 2016.

8] We direct respondent nos. 1 to 3 to evaluate the logic behind the peculiar stipulation in Government policy and then to extend it to correct strength of students with respondent nos. 4 & 5. This exercise shall be completed within three months from today.

9] Only to facilitate that exercise, we quash and set aside the order dated 21.9.2004. Parties to appear before the respondent no.3 on 12.3.2018 and to abide by his further instructions. Parties are at liberty to produce necessary documents in support of their contentions.

10] The Writ Petition is thus partly allowed and disposed of.

J. Judge

Judge