

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

WRIT PETITION NO. 7651 OF 2014

01. Milind Education Society, Kakandi,
Tq. and District Nanded, through
its President Shri Kamlakar Ranbaji
Magare, Age 60 years, Occu: Agril.
R/o Kakandi, Tq. Dist. Nanded
02. Nagsen Vidyalaya, Cidco, Nanded,
Tq. Dist. Nanded, Through its Head
Master Shri Ashok Baliram Magre,
Age 45 years, occu. service,
R/o Cidco, Nanded, Tq. Dist. Nanded .. Petitioners

versus

01. The State of Maharashtra,
Through its Secretary,
School Education Department,
Mantralaya, Mumbai - 32
02. The Chief Executive Officer,
Zilla Parishad, Nanded,
Tq. Dist. Nanded
03. The Education Officer (Primary)
Zilla Parishad, Nanded
04. The Deputy Director of Education,
Latur Region, Latur

Mr V. D. Gunale, Advocate for petitioner
Mr S. S. Dande, Asstt. Govt. Pleader for respondents no. 1
Mr P. B. Patil, Advocate for respondents no. 2 and 3

CORAM : SUNIL P. DESHMUKH AND
R. G. AVACHAT, JJ.

DATE : 8th April, 2019

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally by consent.

2. The petitioner - institution and its school are before this court, aggrieved by communication dated 14-08-2014 whereunder three teachers are declared to have been rendered surplus in petitioner no. 2 school.

3. According to petitioners, going by staffing pattern pursuant to government resolution of 1996, there is no possibility of any teacher being rendered surplus in the school having regard to its past record, particularly strength of students in academic year 2013-14, purporting to point out attendance register (पट पडताळणी) in September, 2013. According to petitioners, taking into account that eight employees were working, no person could have been rendered surplus considering strength of students. Petitioners contend, despite that impugned communication about three teachers being surplus had been issued which is untenable.

4. In affidavit by education officer in reply to writ petition, he purports to refer to that having regard to strength of students of school for academic year 2012-13, three teachers were surplus and accordingly list of surplus teachers had been issued in July, 2014 and the order is based on available record.

5. Whereas, deputy director of education, Latur division, in his affidavit in reply has stated that for the academic year 2012-13, seven posts were admissible to school, however, education officer (primary) has declared three posts of teachers as surplus which, as such, is not in accordance with government resolution dated 30-01-1996. He has further referred to that according to information furnished and having regard to government resolution dated 13-12-2013, eight posts are admissible to the petitioner school from the academic year 2013-14.

6. It is the case of petitioners that none of the employees declared surplus had ever been relieved of charge held by them.

7. It appears that surplus staff for academic year 2013-14 had been declared in July, 2014 while all the posts were available.

8. In the circumstances order / communication dated 14-08-2014 with respect to academic year 2012-13, impugned in present writ petition appears to have been rendered redundant and untenable.

9. Writ petition, thus, is allowed in terms of prayer clause (C) and is disposed of.

10. Rule made absolute accordingly.

R. G. AVACHAT,
JUDGE

SUNIL P. DESHMUKH
JUDGE

pnd/-