

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

WRIT PETITION NO. 15008 OF 2017

Balasaheb S/o. Shripati Munde,
Age : 49 years, Occ. : Service,
R/o. Bhim Nagar, Ausa, Tq. Ausa,
Dist. Latur.

... PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Education Department,
Mantralaya, Mumbai – 32.
2. The Divisional Deputy Director of Education
Aurangabad, Tq. & Dist. Aurangabad.
3. The Chief Executive Officer,
Zilla Parishad, Latur
Tq. & Dist. Aurangabad.
4. The Education Officer (Secondary),
Zilla Parishad, Latur,
Dist. Latur
5. The Head Master,
Shri Mukteshwar Vidyalaya, Ausa,
Tq. Ausa, Dist. Latur.

... RESPONDENTS

Mr. T. M. Venjane, Advocate for the petitioner
Mr. G. O. Wattamwar, AGP for the respondent/State
Mr. S. K. Mathpati, Advocate for respondent No. 5.

**CORAM : SUNIL P. DESHMUKH &
S.M. GAVHANE, JJ.**

DATED : 09-10-2019

ORAL JUDGMENT (PER :- SUNIL P. DESHMUKH, J.)

1. Rule. Rule made returnable forthwith, heard finally with the

consent of the parties.

2. Petitioner is before this court seeking writ of mandamus to upgrade services of petitioner to post of Full Time Librarian from the date from which students' strength of the school where he is appointed has gone above 1000 and contends that right from inception i.e. from 14-08-1995 he would be eligible to be considered for upgradation to the post of full time librarian.

3. It is the case of the petitioner he has been appointed on 14-08-1995 as a part time librarian which has been approved by Education Officer under his letter dated 29-09-1995. According to learned counsel for petitioner students' strength of the school while he had been appointed had been more than 1000 and in terms of government resolution dated 28-06-1994 he is entitled to be considered for upgraded post of librarian, since then. Despite aforesaid the Education Officer had passed an order on 23-04-2007 approving services of petitioner as full time librarian with effect from 01-04-2006. Having regard to decision of division benches at Nagpur of this court in the cases of *Smt. Vatsala Nana Desai* and the orders in writ petitions No.6630 of 2013, 6631 of 2013 and 6481 of 2013 dtd. 28th January, 2015, petitioner would be entitled to upgradation of the post from the date of appointment. In view of aforesaid, petitioner would be entitled to similar treatment.

4. Per contra, learned AGP submits that, it would not be said to have come on record that right from 1995 students' strength of the school where

petitioner has been working is more than 1000. According to his instructions, it is only in 2001 the students' strength had gone up beyond 1000 and not before.

5. Petitioner has not produced material about students' strength. In view of aforesaid accepted position about students strength having gone beyond 1000 in 2001 and onwards, it would be expedient to follow the suit as in the cases referred to by learned counsel for petitioner and quite a few orders passed thereafter by various benches of High Court.

6. Petitioners request for upgradation of the post would be required to be considered by concerned authority from the date on which the students strength has gone above 1000 in 2001 and from that day onwards shall give to petitioner with all consequential, ancillary and incidental benefits of full time librarian and the same be given in right earnest.

7. Writ petition is disposed of. Rule is made absolute accordingly.

[S.M.GAVHANE, J.]

[SUNIL P. DESHMUKH, J.]