

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

WRIT PETITION NO.10479 OF 2019

Asha Sudhir Prabhune

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr Shantanu Deshpande, Advocate h/f Mr V.B. Narke, Advocate for
petitioner

Mr V.M. Kagne, A.G.P. for respondents no.1 and 2

- WITH -

WRIT PETITION NO.10480 OF 2019

Vijaya Sheshrao Kulkarni

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr Joslyn A. Menenzes, Advocate for petitioner

Mr V.M. Kagne, A.G.P. for respondents no.1 and 2

- WITH -

WRIT PETITION NO.10492 OF 2019

Swati Dhundiraj Deshpande

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr Shantanu A. Deshpande, Advocate for petitioner

Mr V.M. Kagne, A.G.P. for respondents no.1 and 2

- WITH -

WRIT PETITION NO.10497 OF 2019

Surekha Avinash Deshpande

@ Surekha Sakharampant Kulkarni

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr V.S. Palsikar, Advocate for petitioner
Mr V.M. Kagne, A.G.P. for respondents no.1 and 2

**CORAM : S.V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 28.08.2019

ORAL ORDER :

1. Heard learned Counsel for the respective parties.

2. It is strenuously contended by learned Counsel for the petitioners that as per Rule 27 (d) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Rules (hereinafter referred to as 'M.E.P.S. Rules' for brevity) in case the management runs more than one school and in case retrenchment is to be effected, then the petitioners are required to be absorbed in another school. The principle of common seniority is required to be followed. According to petitioners, the petitioners had challenged the notice of retrenchment by filing writ petition, as it was not in consonance with Rule 27 (d) of the provisions of M.E.P.S. rules. Petitioners were granted protection by this Court.

3. Subsequently, the petitioners were absorbed in another school as per M.E.P.S. Act and Rules. The learned Advocates submit that the petitioners are entitled for the salary of the interregnum period. The Education Officer refused to grant salary for the period, the school was closed and the order of absorption. The same is not in consonance with the provisions of Rule 26 of the M.E.P.S. Rules.

4. We have heard the learned Assistant Government Pleader.

5. The retrenchment of the petitioners was under Rule 25-A of the M.E.P.S. Rules. The school where the petitioners were working was closed down. In view of that Rule 26 of the M.E.P.S. Rules will have no application. The case of the petitioners could have been appreciated had the notice of retrenchment issued under Rule 25-A was set aside by the Court. The petitioners have been absorbed in other school.

6. As the retrenchment is under Rule 25-A of the M.E.P.S. Rules, the petitioners will not be entitled to salary, however, they will be entitled to all the further monitory benefits considering the petitioners' service to be continuous and without break.

6. Writ Petitions are accordingly disposed of with aforesaid observations.

(ANIL S. KILOR, J.)

(S.V. GANGAPURWALA, J.)

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