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

**CONTEMPT PETITION NO.652 OF 2019
IN
WRIT PETITION NO.5236 OF 2018**

Vithal s/o Gangadhar Puthewad,
Age: 37 years, Occu: Service as
Assistant Teacher, R/o Lohata (East),
Tq. Kallam, District Osmanabad

..PETITIONER

VERSUS

1. Gajanand Susar,
The Education Officer (Secondary),
Zilla Parishad, Osmanabad
2. Deshmukh Sham Balasaheb,
The Headmaster,
Dharangrast Madhyamik Vidyalaya,
Lohata (East), Tq. Kallam,
District Osmanabad

..RESPONDENTS

Mr G. J. Karne, Advocate for petitioner;
Mrs M. A. Deshpande, A.G.P. for respondent No.1

**CORAM : PRASANNA B. VARALE
AND
ANIL S. KILOR, JJ.**

DATE : 6th December, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

2. On a grievance that the order dated 20th March, 2019, passed by the Division Bench of this Court in Writ Petition No.5236 of 2018 is not complied with, the present contempt petition was filed.

3. Notice was issued by this Court by an order dated 24th September, 2019 and in response to notice, the affidavit-in-reply was filed in this Court through Mr Gajanand S. Susar, Education Officer (Secondary), Zilla Parishad, Osmanabad. On 13th November, 2019, learned Counsel for the petitioner raised an objection to the statement made before this Court that the order of this Court is duly complied with on the backdrop of the communication/order dated 2nd November, 2019. By an order dated 13th November, 2019, this Court was pleased to observe that there are some reservations to accept the submissions of learned Counsel for the petitioner but for a request made by learned Counsel that he would place on record the rejection order, which was impugned in the petition i.e. Writ Petition No.5326 of 2018 within a stipulated period and the petition was adjourned.

4. Learned Counsel for the petitioner submitted that the very rejection order, which was subject matter of the petition is placed on record alongwith the contempt petition. He invited our attention to the document at page 34 of the petition. It seems that, initially an order was passed by this Court in an earlier proceedings on 14th February, 2018. On considering the proposal received by the Education Officer, the Education Officer raised certain objection and rejected the proposal. The fact emerged from the perusal of the material is, afresh

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decision dated 2nd November, 2019 by the Education Officer is placed on record at annexure R-1 to the affidavit-in-reply and perusal of this order clearly shows that initially the proposal submitted by the institute was considered by the Education Officer and an approval was granted to the petitioner for the post of “Shikshan Sevak” for three years w.e.f. 1st February, 2012.

5. Mr Dande, learned Asstt. Govt. Pleader, on instructions, submitted that the Management through the Headmaster submitted a fresh proposal to the Education Officer on 20th November, 2019 seeking approval for the post of “Assistant Teacher” to the petitioner along with the documents. He also invited our attention to the notes referred to in the communication dated 20th November, 2019, wherein the Headmaster states that the petitioner was continuously remaining absent in the academic sessions of 2015-16 and 2016-17. The Headmaster specifically observed in Note No.2 that in the entire academic session of the year 2016-2017, the petitioner worked only for 2-3 months and is continuously absent from December, 2017. Then another note is also submitted that as per the approved staffing pattern, there are already two surplus teachers in this school. Be that as it may be.

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6. Now, as the proposal is submitted to the Education Officer off late, the present contempt petition can be disposed of with only direction to the Education Officer to decide the proposal received by him forwarded through the Headmaster along with the documents on 20th November, 2019, needless to state on its own merits, as early as possible.

7. We further make it clear that if the petitioner makes a request to the Education Officer for personal hearing, the Education Officer may consider that request and may grant opportunity of hearing to the petitioner.

8. Considering all the aforesaid facts, we are of the clear opinion that the purpose of approaching this Court is duly served and as such, the present contempt petition is disposed of accordingly with above referred directions.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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