

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

911 WRIT PETITION NO.14077 OF 2018

KRUSHIJAN VIDYAVIKAS MANDAL WADEGAVHAN THROUGH ITS
PRESIDENT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Shelke Shivaji T.
AGP for Respondents/State : Mr. S.G. Karlekar
Advocate for Respondents : Mr. Gaikwad Anil M. for R/4
Advocate for Intervenor : Mr. P.B. Shirsath

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**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**
DATE : 20.08.2019

PC. :-

Mr. Shelke the learned advocate submits that the Deputy Director of Education does not have the jurisdiction to declare the respondent no.5 surplus. The proposal was given to the Education Officer as per Rule 26 of the M.E.P.S. Rules, it is the Education Officer who has to deal with the said issue.

2. Mr. Karlekar the learned A.G.P submits that in fact in the year 2011 when respondent no.5 was appointed three posts were admissible for O.B.C. and respondent no.5 was the third candidate from the O.B.C. However in the year 2017-2018 the strength of the students reduced and as such the posts for O.B.C. also is reduced initially from three to two and thereafter from

two to one. In view of that respondent no.5 is declared surplus.

3. It is also the grievance of the respondent no.5 that he was never heard nor was given any notice before declaring him surplus.

4. Considering the dispute with regard to the staffing pattern it would be appropriate to direct the Education Officer to consider the staffing pattern and also the teachers / staff that would be rendered surplus.

5. The Education Officer shall consider the staffing pattern, the executive instructions issued from time to time and shall take decision about the surplus teachers / staff, if any, and shall pass necessary orders. The impugned order would not be an impediment for the Education Officer to take decision on its own merits. The said decision shall be taken within four months. In case the Education Officer on merits holds that respondent no.5 is surplus then the person who is declared surplus would not be entitled for the salary for the said period. The parties may appear before the Education Officer and represent themselves. Writ petition is disposed of. No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]