

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION NO. 9085 OF 2016

Shantinath s/o Shripal Chougule & Ors. .. Petitioners
Vs.
The State of Maharashtra & Ors. .. Respondents

None for the Petitioners.

Mr. M. M. Pabale, AGP for Respondent Nos.1 to 4.

CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.
DATE : 4th JULY, 2019.

P. C. :

1. The Petitioners were employees in the teaching as well as non-teaching posts in Ashram Schools established by private bodies which were receiving grant-in-aid. The Ashram Schools were de-recognized and as a result the Petitioners lost employment. The principle of law is that once a post is abolished, the holder of the post loses lien. But, policy decision in the form of Resolutions or Rules have been framed by most State Governments requiring a list to be prepared of such surplus staff to be absorbed in other institution as and when vacancy is available.
2. In the State of Maharashtra Rule 25A of the Maharashtra Employees of Private Schools (Condition of Service) Rules, 1981 applies and Sub-Rule 2 of the Rule states that surplus employees of aided schools upon closure or de-recognition of the schools would be wait-

listed; to be absorbed in other aided schools or schools established by the Government if they are not directly responsible for the recognition or de-recognition.

3. Challenge in the Writ Petition is to a Government Resolution dated 01.04.2016 as per which on being declared surplus, no salary is paid to the employees of Ashram Schools till they are adjusted in some other Ashram Schools. The policy decision notes that it had to be given effect to a decision dated 27.01.2015 in Writ Petition No. 4305 of 2014 (Pages 58 to 62).

4. But, we are constrained to dismiss the Writ Petition without reflecting upon the legality of the impugned Government Resolution for the reason there is no representation from the side of the Petitioners. The Petition is dismissed in default.

[N. M. JAMDAR, J.]

[CHIEF JUSTICE]