

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 3515 OF 2015

Suresh K. Kshirsagar

... Petitioner.

V/s.

State of Maharashtra and Ors.

... Respondents.

Mr. Uday P. Warunjikar for the Petitioner.

Mr. B.V. Samant, AGP for Respondents 1 and 2.

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M. JAMDAR, J.***

DATE : 19 JULY 2019.

P.C. :-

Heard learned Counsel for the parties.

2. The Petitioner was appointed as a assistant teacher in the discipline of Arts by Respondent No.3 on 08.06.2001. He was confirmed in service. On 11.02.2014 he was declared surplus and was absorbed under Respondent No.4 - School. The Petitioner made a representation on 02.01.2015 against he being declared

surplus and made various contentions in the representation. The representation was made to Respondent No.2, who did not decide the same resulting in the Writ Petitioner being compelled to file the instant Petition challenging he being declared surplus and required to be absorbed under Respondent No.4.

3. During the pendency of the Writ Petition a communication has been issued by the Government which makes a reference to a decision taken on 3 July 2017 which has a bearing on assistant teachers in the discipline of arts being liable to be declared surplus and absorbed in other schools.

4. Needless to state it is not a simple issue of a teacher being declared surplus for the reason teachers teach in different discipline. Merely because on the student teacher ratio prescribed as a result of decrease in the number of students, the number of teachers needs reduction would not mean that any teacher can be declared surplus. The discipline in which the teachers teach has to be kept in mind.

5. Accordingly, the Writ Petition is disposed of directing the 2nd Respondent to take a decision on the representation made by the Petitioner on 02.01.2015. Since, when the representation was made the Government communication dated 12 July 2017 was not in existence, while taking the decision, the 2nd Respondent would

take into account the said Government decision.

6. The Petitioner is permitted to file an additional representation.

7. The decision shall be taken by the Respondent No.2 within six weeks of receipt of the additional information.

N.M. JAMDAR, J.

CHIEF JUSTICE