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

WRIT PETITION NO. 13269 OF 2017

Mashaiq Syed Shamsuddin Badiuddin,
Age: 45 years, Occu : Assistant Teacher,
R/o. Block No.7, Shafa Apartment,
Shahbazar Road,
Champa Chowk, Aurangabad

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
School Education and Sports Department,
Mantralaya, Mumbai
2. The Director of Education (Secondary
& Higher), Pune
3. The Education Officer (Secondary),
Zilla Parishad, Aurangabad
4. The Chairman,
Maganshah Education Society,
Borgaon Sarauni, Tq. Sillod,
Dist. Aurangabad

(Respondent No.4 above is deleted
as per Court's order dated 14/12/2018)

5. The Collector, Aurangabad,
Collector Office, Aurangabad

(Respondent No.5 above is deleted
as per Court's order dated 22/11/2017)

5. The Chief Executive Officer,
Zilla Parishad, Aurangabad
6. The Education Officer (Primary)
Zilla Parishad, Aurangabad

..RESPONDENTS

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Mr Sayyed Tauseef Yaseen, Advocate for petitioner;
Mr K. N. Lokhande, A.G.P. for respondent Nos.1 to 3;
Mr S. V. Kshirsagar, Advocate h/f Mrs. M. A. Deshpande, Advocate
for respondent Nos. 5 & 6;

**CORAM : PRASANNA B. VARALE
AND
R. G. AVACHAT, JJ.**

DATE : 29th January, 2020

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

2. The petitioner is before this Court seeking directions to respondent Nos.3 and 4 to absorb him in any school operated/managed by respondents.

3. Learned Counsel for the petitioner invited our attention to the order of approval granted to the appointment of the petitioner and the other similarly circumstanced teachers, dated 10th November, 2004, placed on record at page 16 and typed copy at page-16-A.

4. Learned Counsel for the petitioner then submitted that those other teachers, who are similarly circumstanced with the petitioner have also filed respective writ petitions in this Court and by an order dated 19th September, 2018, Writ Petition No.6772 of 2016 filed on behalf of Quazi Rafiuddin Quazi Zakiuddin was disposed of.

5. Learned Counsel for the petitioner then by inviting our attention to the affidavit-in-reply filed on behalf of Deputy Education Officer (Secondary), Zilla Parishad, Aurangabad, dated 7th August, 2019, submitted that the order dated 12th/15th September, 2018 is annexed to the affidavit-in-reply and there is already a reference in the order of the Division Bench, dated 19th September, 2018, in the opening part of the said order itself. It is further submitted by learned Counsel for the petitioner that the Division Bench of this Court, in clear and unambiguous words observed and more particularly in paragraph No. 3 of the order that the petitioner will have to be treated as permanent employee for all purposes and will be absorbed permanently.

6. It is further submitted by the learned Counsel for the petitioner that the present petitioner, being similarly circumstanced with the petitioner Mr Quazi Rafiuddin Quazi Zakiuddin in Writ Petition No. 6772 of 2016 would be entitled for similar treatment, namely, absorption of the petitioner by treating him as a permanent employee for all purposes and no unequal treatment can be granted to those who stand on a similar footing.

7. We find considerable merit in the submissions of learned Counsel for the petitioner and as such, there is no reason for us to take

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a different view than the view adopted by the Division Bench in the order dated 19th September, 2018.

8. Thus, the present petition is partly allowed by issuing directions to respondent Nos.5 and 6 to absorb the petitioner in those schools under the order dated 12th/15th September, 2018, treating him as a permanent employee.

9. Insofar as the claim of the petitioner for grant of arrears of salary and other consequential benefits is concerned, we permit the petitioner to approach respondent No.6, by submitting necessary representation/application and in case such representation/application is filed before respondent No.6 within two weeks, same be decided as early as possible.

The writ petition is disposed of accordingly.

(R. G. AVACHAT, J.)

(PRASANNA B. VARALE, J.)

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