

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

WRIT PETITION NO.373 OF 2019

VANDANA SAYBANNA JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Shri Rodge Pratap G.
AGP for Respondents 1 and 2 / State : Shri S.B.Narwade
Advocate for Respondents 3 and 4 : Shri V.G.Kodale h/f Shri Satish S.
Deshmukh (Patnurkar)

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**CORAM : S.V. GANGAPURWALA
&
SHRIKANT D. KULKARNI, JJ.**

DATE :- 28th January, 2020

Per Court :-

1 Leave to add the Deputy Director of Education, Latur as a party. The learned AGP also waives notice for the added respondent.

2 It appears that the petitioner is appointed as an Assistant Teacher in the year 2007. The approval was granted to the petitioner by the Education Officer on 29.12.2012 for the period of probation on no grant basis. Subsequently, the Education Officer also granted approval permanently on no grant basis on or about 23.12.2015. On 10.05.2018, the approval granted to the petitioner is cancelled by the Education

Officer.

3 The learned advocate for the petitioner submits that on the premise that the petitioner had submitted the resignation, the approval is cancelled. The petitioner has never submitted an application for resignation. It was a mischief played by somebody. Immediately on getting the knowledge of mischief played by some person, the petitioner filed an application to the effect that no resignation was given by the petitioner. The Management considered the same and cancelled the earlier resolution accepting the resignation. It is stated that the approval has been cancelled without notice to the petitioner and without hearing the petitioner. Now, the post on which the petitioner is appointed is getting 20% grant in aid.

4 The learned AGP submits that the Education Officer was informed of the resignation of the petitioner. The Management also appointed another candidate in place of the petitioner, namely, SmtPadwal. Since the candidate was appointed in place of the petitioner, the approval is rightly cancelled. All these aspects are considered. The Education Officer has not received the letter dated 18.07.2018 produced by the Headmaster along with his additional affidavit.

5 The matter involves disputed questions of facts. No doubt, the services of the petitioner are approved on no grant basis by the Education Officer. Subsequently, the resignation of the petitioner is on record. The petitioner contends that the same has never been given by her. The

resolution of the Management is also on record to suggest that the Management has accepted the resignation. Subsequent letter of the petitioner is on record pursuant to which, the Management has also cancelled the earlier resolution accepting the resignation. There are rival contentions. It is the contention of the petitioner and the Management that Smt.Padwal was appointed on the post, which has become vacant on resignation of Mr.Narsinghe and not on the post on which the petitioner was appointed. Whereas, the contention of the Education Officer is otherwise.

6 The staffing pattern will have to be considered in that regard and the documents will have to be perused/ scanned.

7 Considering the above, we direct the Deputy Director of Education, Latur to consider the staffing pattern and the documents that would be produced by the parties and take a decision with regard to the availability of the post on which the petitioner was appointed, the approval of the services of the petitioner and about the genuineness of the claims of the resignation and/or mischief played by some other party about the resignation.

8 The petitioner and the respondents shall appear before the Deputy Director of Education, Latur on 10.02.2020. The petitioner and the respondents shall produce the documents on which they rely. The Deputy Director of Education shall thereafter, take a decision as directed above

preferably within THREE MONTHS from the date of appearance of the parties before him.

9 This Writ Petition is, accordingly, disposed of. No costs.

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(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)