

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.5239 OF 2018

Shubhangi d/o Vasant Hiwse, Near Old Pardi Naka, Near Water Tank, Nagpur 440035

-vs-

State of Maharashtra, Thr. Secretary, School Education and Sports Department, Mantralaya,
Mumbai and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri Yash Maheshwari, Advocate for petitioner.
Shri S. J. Kadu, Assistant Government Pleader for respondent Nos. 1
and 3.
Shri G. G. Mishra, Advocate for respondent No.2.
Shri V. A. Bramhe, Advocate for respondent No.4.
Shri R. V. Shiralkar, Advocate for respondent No.5.

CORAM : A. S. CHANDURKAR AND VINAY JOSHI, JJ.

DATE : FEBRUARY 10, 2020

Rule. Heard finally with consent of learned counsel for the parties considering the short issue involved.

The appointment of the petitioner on the post of Assistant Teacher was approved by the Education Officer (Primary) on 04/03/2014. However by a common order dated 23/07/2015 the Education Officer (Primary) proceeded to cancel that order. Being aggrieved the petitioner challenged the same by filing Writ Petition No.7270/2017. On 19/01/2018 the said writ petition was allowed by setting aside the order dated 23/07/2015 and directing the Education Officer (Primary) to take further steps after verification. Thereafter on 31/05/2018 the Education Officer (Primary) was pleased to maintain the earlier order dated 23/07/2015 and hence being aggrieved the petitioner has challenged the order dated 31/05/2018.

Shri Y. Maheshwari, learned counsel for the petitioner submits that the Education Officer (Primary) has no jurisdiction to review the order passed by him earlier and infact such power has to be exercised by the Deputy Director of Education. For said purpose he relied upon the judgment in Writ Petition No.3057/2017 (*Nilesh Subhash Jawanjal and ors. vs. State of Maharashtra and ors.*) dated 14/09/2017 and submits that the Deputy Director of Education can be directed to reconsider the matter in the light of the directions issued in Writ Petition No.7270/2017. The learned counsel for the respondents do not dispute this aspect that in the light of aforesaid judgment in Writ Petition No.3057/2017 such exercise has to be conducted by the Deputy Director of Education.

In that view of the matter the order dated 31/05/2018 is set aside. The Deputy Director of Education is directed to hear all the concerned parties and take a decision with regard to the validity of the order dated 23/07/2015 permitting transfer of the petitioner from an unaided section to an aided section. To enable such exercise to be conducted all the concerned parties are directed to appear before the Deputy Director of Education on 01/03/2020. After hearing all parties necessary decision be taken within period of eight weeks from that date. All points raised on behalf of all the parties are kept open.

Consequential orders with regard to release of salary of the petitioner shall also be passed by the Deputy Director of Education.

Writ Petition is allowed in aforesaid terms and disposed of. No costs.

JUDGE

JUDGE