

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

936 WRIT PETITION NO.4036 OF 2018

INDIRA MAHILA JAGRUTI SANGHATANA AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Panpatte V. S.
AGP for Respondents-State : Mr. S. B. Yawalkar.
Advocate for Respondent No.3 : Mr. N. S. Kadam.

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**CORAM : RAVINDRA V. GHUGE, AND
S. G. MEHARE, JJ.**

DATE : 17.11.2021

PER COURT :-

1. The petitioners have put forth prayer clauses "B" and "C"

which read as under :

"B. By a writ of mandamus or any other appropriate writ or direction in the like nature, the respondents may please be directed the sanctioned revised and adequate teaching staff in the Petitioner No.2 - School as per Section 25(1) of the R.C.E. Act for the academic years 2010-11 to 2014-15 and further to sanction revised and adequate teaching staff for the academic years 2015-16 and 2016-17 as per Clause 2.1.1 of Govt. Resolution dated 28.8.2015;"

"C. By a writ of mandamus or any other appropriate writ or direction in the like nature, the respondent no.3-Education Officer may please be directed to grant approval to the appointment of the petitioner no.3 as Shikshan Sevak in the petitioner no.2 - School from 15.06.2011 to 14.06.2014 and further to grant permanent approval to the services of the

petitioner as Assistant Teacher in regular pay-scale from 15.06.2014 onwards and accordingly, release the arrears of salary of the petitioner no.3;"

2. Having heard the learned advocates for the respective sides for a considerable time, we find that prayer clause "B" could be considered in this petition in the peculiar facts and circumstances of the case. After the revised staffing pattern is sanctioned, the grievance of the petitioners as set out in prayer clause "C" could be considered by the Education Officer, if the petitioners approach him as per the due procedure.

3. Section 25(1) and (2) of the Right of Children to Free and Compulsory Education Act, 2009 read as under :

*"25. **Pupil-Teacher Ratio.** - (1) [Within three years] from the date of commencement of this Act, the appropriate Government and the local authority shall ensure that the Pupil-Teacher Ratio, as specified in the Schedule, is maintained in each school.*

(2) For the purpose of maintaining the Pupil-Teacher Ratio under sub-section (1), no teacher posted in a school shall be made to serve in any other school or office or deployed for any non-educational purpose, other than those specified in section 27."

4. The Appropriate Government is defined under Section 2(a) sub clauses (i) and (ii), which read as under :

*"2. **Definitions.**- In this Act, unless the context otherwise requires, -*

(a) "appropriate Government" means -

(i) in relation to a school established, owned or controlled by the Central Government, or the administrator of the union territory, having no Legislature, the Central Government;

(ii) in relation to a school, other than the school referred to in sub-clause (i), established within the territory of -"

5. An affidavit-in-reply filed by Mr. Prashant Prakashrao Digraskar, Education Officer (Primary), Zilla Parishad, Nanded District Nanded, dated 19.09.2021, indicates from paragraph No.6 as under :

"6. I say that, pursuant the request made by the Head Master, necessary proposal was forwarded by the deponent-office to the respondent No.2 for correction in Staffing Approval. Accordingly the respondent no.2, vide Letter dated 29th November 2019 granted the revised Staffing Approval. As per the said revised Staffing Approval, the respondent No.2 has sanctioned three posts for the academic year 2015-16 and four posts for the academic year 2016-17, 2017-18 and 2018-19. The revised Staffing Approval for the academic year 2014-15 is yet to be received from the respondent No.2. I say that, as soon as the revised Staffing Approval is received from the respondent no.2, the decision will be taken on the Approval Proposal of the petitioner No.3 on its own merits."

6. In view of the above, this petition is disposed off with a direction to respondent No.2 to consider the details / material available before him and pass an appropriate order of revising the staffing approval for the academic year 2014-15, save and except, in the event of a legal impediment. This exercise shall be completed on or before 15.12.2021. His decision shall be

conveyed to the Education Officer - respondent No.3 forthwith and the said authority shall then pass appropriate orders in the light of the grievance of the petitioners set out in prayer clause B, as expeditiously as possible and in any case, on or before 15.01.2022.

7. Needless to state, any grievance of the petitioners as regards these decisions could be voiced before an appropriate forum. So also, the petitioners would be at liberty to seek a remedy as is set out in prayer clause "C" reproduced above, after the above exercise is completed, within four (4) weeks from the date the proposals of the petitioners / grievance of the petitioners is placed before the Education Officer.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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vmk/-