

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

990 WRIT PETITION NO.6424 OF 2019

**BHARAT RAGHUNATHRAO TANDALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners : Mr. S.P. Brahme & Mr. A.R. Syed

AGP for Respondents 1 & 2 : Mr. S.K. Tambe

Advocate for Respondent 3 : Mr. R.D. Khadap

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**CORAM : S.V. GANGAPURWALA &
R.N. LADDHA, JJ.**

DATED : 12/10/2021.

PER COURT :

. In writ petition, the petitioner is challenging the letter dated 6.2.2019 issued by respondent No. 2 – Education Officer (page No. 88). Under the said communication, the Education Officer concluded that there are surplus teachers. The petitioner was appointed only for three months from 16.8.2009. Since 2016-2017 there are surplus teachers. There is no appointment order in favour of the petitioner subsequently and the petitioner is not serving in the school. As there is no vacancy, approval to the appointment of the petitioner cannot be granted.

2. We have heard Mr. Brahme, learned advocate for the

petitioner, Mr. Khadap, learned advocate for respondent No. 3 and the learned A.G.P for respondent Nos. 1 and 2.

3. In the present matter, the basic dispute is whether the petitioner is working since 2010 onwards.

4. The petitioner is relying upon the order of appointment issued in favour of the petitioner for the years 2010 to 2013, photocopies of some of the muster pages and the communication issued to him as class teacher. Whereas, according to the management, the petitioner is not in service since 2011 with the management. The earlier proposal submitted was negated. The petitioner did not challenge the said order. Other six persons to whom petitioner claims that benefits were given, their services were terminated. They approached the School Tribunal. Their appeals were dismissed. Thereafter, they approached this Court by filing writ petitions. This Court directed the management to reinstate those teachers. As the petitioner was not working, he has not granted any relief.

5. As disputed questions of facts exist regarding muster

roll, the communication received by the petitioner, to substantiate the case of the petitioner that he was discharging his function as Assistant Teacher, the same will have to be considered by the Education Officer. The documents which are placed on record with the writ petition were not before the Education Officer.

6. The Education Officer may reconsider the material placed by the petitioner. He shall also consider the case put forth by the management and thereafter take decision afresh. In that event, the impugned order would not be impediment. The decision may be taken preferably within four months.

7. Writ petition is disposed of. No costs.

8. The amount of Rs.10,000/- (Rupees ten thousand only) deposited by the respondents is allowed to be withdrawn by the petitioner.

[R.N. LADDHA, J.]

[S.V. GANGAPURWALA, J.]