

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

912 CIVIL APPLICATION NO.6180 OF 2021
IN WP/7982/2020

CHANDRAKANT BHAGWAT DHAKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicants : Ms. Mahajan Surekha P.
AGP for Respondent/s-State : Mr. S. K. Tambe.
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**CORAM : RAVINDRA V. GHUGE, AND
S. G. MEHARE, JJ.**

DATE : 22.07.2021

PER COURT :-

1. The learned advocate for respondent Nos.3 and 4, is not available, either through the online mode or by remaining present in the Court Hall in which an arrangement for addressing the Court through video conferencing has been made.

2. It is informed that applicant No.2 Nivrutti, who is petitioner No.2 in the writ petition, has passed away recently. As such, there cannot be a claim for absorption of the deceased surplus employee.

3. Our attention is drawn to paragraph Nos.3 to 7 of the civil application. The learned advocate for the applicants has pointed out instances, which indicate that surplus teachers, who are juniors to applicant Nos.1 and 3 in the seniority list of surplus teachers maintained for absorption as per Rule 26 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Rules, 1981, has been violated. It is then pointed out that today, there are two vacancies available with the respondent-Management. Applicant Nos.1 and 3 are now senior most surplus teachers, who need to be absorbed. The said two vacancies have occurred due to the retirement of Mr. S. A. Phalak and Smt. S. P. Patil.

4. The learned AGP Mr. Tambe graciously submits that there is no reason for the Education Officer (Secondary) to be a party to any violation of the seniority list of surplus teachers, which is maintained for absorbing them as and when vacancies are available and the candidates are found suitable.

5. Considering the above, this Civil Application is allowed with the following directions :

- (a) The name of applicant No.2 Nivrutti Pitambar Shirole, be deleted from the proceedings since he has passed away.
- (b) Respondent Nos.3 and 4 are directed not to absorb / appoint any candidate, who may be junior to applicant Nos.1 and 3 in the seniority list of surplus teachers considering the suitability of these two applicants.
- (c) Respondent No.2 shall not accord approval to an appointment / absorption of any teacher, if he finds that the claims of applicant Nos.1 and 3 are impinged in view of the seniority list of surplus candidates.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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vmk/-