

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

963 Writ Petition No.5518 Of 2021

Shaikh Shafi Moinuddin

.. Petitioner

Versus

The State of Maharashtra and Others

.. Respondents

...

Mr Manish P. Tripathi, Advocate for the Petitioner
Mr P.K. Lakhotiya, AGP for Respondent Nos.1 & 2
Mrs P.V. Diggikar, Advocate for Respondent Nos.3 & 4

...

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

DATE : 01-09-2021

PER COURT : -

1. The grievance of the petitioner appears to be that though the orders of absorptions are passed, the petitioner is not absorbed.
2. We have heard Mr Tripathi, learned Advocate for the petitioner.
3. The learned Advocate for the petitioner submits that as per the order of absorption the petitioner is not being accommodated.
4. The affidavit is filed by respondent nos.3 and 4. As per the affidavit, respondent no.2 directed Zilla Parishad, Parbhani to absorb the petitioner in Urdu Medium School. Zilla Parishad, Parbhani does

not have vacancy, on the contrary surplus teachers exist from general category. It is further averred that, after refusal by the Zilla Parishad, Raigad and Zilla Parishad, Parbhani to absorb the petitioner due to non-availability of vacant post from general category, Respondent No.2 directed respondent no.3 to absorb the petitioner. Respondent no.3 School has 260 sanctioned posts for Urdu Medium in Nanded Zilla Parishad. 214 posts are filled in and 46 posts are vacant. However, for general category, no vacant post exists so as to absorb the petitioner. In all there are 159 sanctioned posts for general category and 173 candidates are officiating of general category. There are 14 posts excess filled in from general category. Therefore, the petitioner cannot be accommodated in Urdu Medium from general category.

5. It does not appear to be matter of debate that the petitioner belongs to general category and that excess posts from general category are filled in by Zilla Parishad, Nanded. 46 vacant posts exist of reserved category. The petitioner is sitting idle. As 46 posts are still vacant, by way of stop cap arrangement, respondent no.3 can be directed to accommodate the petitioner and discharge the duty. The same would be purely as a stop cap arrangement without affecting the post of the reserved category candidates. In case the reserved

.. 3 ..

category candidates are available to fill in the vacant posts of reserved category, certainly further orders can be passed by respondent no.2 to accommodate the petitioner in other school from general category. However, till the candidates of reserved category are available with respondent no.3 for filling in 46 vacant posts, the the respondent nos.3 and 4 shall allow the petitioner to officiate.

6. In light of the observations made above, the Writ Petition is disposed of. No costs.

[R.N. LADDHA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

...