

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No. 5601/2019

Jamdar High School Education Society and anr. ...Petitioners

Versus

The State of Maharashtra and ors. ...Respondents

WITH

Writ Petition No. 4584/2019

Vaibhav Umakant Chimankar ...Petitioner

Versus

Deputy Director of Education and ors. ...Respondents

WITH

Writ Petition No. 8514/2018

Vaibhav Umakant Chimankar ...Petitioner

Versus

Deputy Director of Education and ors. ...Respondents

Writ Petition No. 5601/2019

Shri A.D. Mohgaonkar, Advocate for the Petitioners

Shri A.M. Deshpande, AGP for the Respondent Nos. 1 and 2- State

Shri P. N. Shende, Advocate for the Respondent No. 3

Writ Petition Nos. 4584/2019 and 8514/2018

Shri P. N. Shende, Advocate for the Petitioner

Shri A.M. Deshpande, AGP for the Respondent Nos. 1 and 2 - State

Shri A.D. Mohgaonkar, Advocate for the Respondent No. 3

CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.

DATED : 03 MARCH 2021

P.C.:

In these Petitions after hearing the parties, following Order was passed by this Court on 17 February 2021:

“Heard learned counsel for the parties.

2. *The basic facts in these three Writ Petitions are that the teacher Shri.Vaibhav Umakant Chimankar was declared surplus while he was working with the Educational Institute. He is not yet absorbed in any school. It is informed that the Petitioner was offered to be absorbed in one school, where he did not join. According to the Education officer there is no post available in the school where he was directed to be joined.*

3. *Be that as it may, since it is an admitted position that Shri.Chimankar is a permanent teacher and is rendered surplus, his services will have to be absorbed as per Rules framed under the Maharashtra Employees of Private Schools (Condition of Service) Rules 1981. If a post is not available for absorption in a particular school, the Education Officer will have to make an endeavour to absorb the Teacher in some other school. The learned counsel for the Teacher and the learned counsel for the Educational Institute are amenable to this course of action.*

4. *As an interim direction, the concerned Education Officer is directed to issue necessary orders for placement of the Petitioner for absorption in any school in the Nagpur Region before the next date of hearing. After such order is passed, depending on its*

implication, further course of action can be decided in these Petitions.

5. Considering the fact that the Petitions are likely to worked out by above consensus, till further orders the direction issued to the Educational Institute to deposit the salary / arrear of the Teacher will be not given effect to.

6. Stand over to 03 March 2021.”

2. The learned Counsel for the parties informed that the Petitioner-Teacher is now absorbed in Indira High School and Junior College, Kamptee and has joined service on 25 February 2021. The learned Counsel for the parties informed that in view of this development, the substantial dispute between the parties is worked out.

3. The learned Counsel for the Petitioner-Teacher submits that question of payment of salary from December 2018 to 25 February 2021 is pending and the Education Officer should look into this grievance.

4. The learned AGP states that the Education Officer will take a decision and take necessary steps in this regard as per law within a period of eight weeks.

5. Since, this issue now is to be decided by the Education Officer, the impugned Orders in Writ Petition No. 5601/2019 directing the Petitioner therein to pay salary to the Petitioner-Teacher need not be kept on file as that stand is superseded by this direction and are accordingly quashed and set aside.

6. Therefore, Writ Petitions are disposed of accepting the statement of the learned AGP and setting aside the impugned Orders in Writ Petition No. 5601/2019. The relief prayed in other Writ Petitions do not survive in view of the subsequent developments.

7. The Writ Petitions are disposed of.

[ANIL S. KILOR, J.]

[NITIN JAMDAR, J.]