

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

**CIVIL APPLICATION NO.10925 OF 2022
IN WP/10077/2016**

**THE HEAD MASTER AND ANOTHER
VERSUS
DILIP VISHWANATH RATHOD AND OTHERS**

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Advocate for the Applicants : Shri Dhage Vivek J.
AGP for Respondents 2 and 3/State : Shri P.K. Lakhotiya
Advocate for Respondent 1/original petitioner : Mrs.M.A.
Kulkarni

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**CORAM : RAVINDRA V. GHUGE
&
ARUN R. PEDNEKER, JJ.**

DATE :- 19th August, 2022

Per Court :-

1. By this Civil Application, the applicant/Management
has put forth prayer clause B as under :-

*“B) In view of the circumstances stated
hereinabove, Writ Petition No.10077/2016 may
kindly be disposed of.”*

2. The petitioner had challenged the declaration of his
service as being surplus vide communication dated 27.08.2016.

3. Heard the learned advocates for the respective sides.

4. The Management has set out in paragraph 2 of the

Civil Application as under :-

“2. *In the meantime, 2 employees by names Rohidas Baburao Rathod and another employee Nandkishor Gaibi Nagare, who were working in Shri Shivaji High School, Ramnagar, Tq. and Dist.Jalna, died on 03.08.2019 and 19.09.2020, respectively. The present applicants (orig.respondent Nos.3 and 4) are withdrawing the communication dated 27.08.2016 (Exh.F, page No.17 of writ petition) by which, non-applicant No.1 (orig.petitioner) was declared as surplus.*”

5. The learned advocate for the petitioner submits that though the impugned order is being withdrawn, the petitioner is being transferred to the same Shivaji High School, but at Ramnagar, which is about 14 kilometers away from the present location.

6. The learned advocate for the Management submits that the petitioner has assailed the order dated 27.08.2016 and once the said order is withdrawn and the status of the petitioner is restored, the petition would not survive.

7. In view of the above, this Civil Application is disposed off.

8. By recording that the impugned order/communication dated 27.08.2016 is recalled, the Writ

Petition stands disposed off.

9. Needless to state, the petitioner would now be in service. In the event, the petitioner is aggrieved by his transfer from Shri Shivaji High School, Jalna, to Shri Shivaji High School, Ramnagar, the petitioner would be at liberty to avail of the remedy as is permissible in law.

kps (ARUN R. PEDNEKER, J.) (RAVINDRA V. GHUGE, J.)