

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.839 OF 2019**

Smt. Asha Anandrao Ranmale .. Petitioner
v/s.
The State of Maharashtra Throu The
Dept. of Education And Ors. .. Respondents

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Mr. Prashant Bhavake, for the Petitioner.

Mrs. P.N. Diwan, AGP, for State.

Mr. Amol Dhumal, i/b. Mr. Sanjay Pawar, for Respondent Nos. 2 and 3.

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**CORAM: SUNIL B. SHUKRE &
AMIT BORKAR JJ.**

DATE : 16 FEBRUARY 2022

P.C:-

Heard learned Counsel for the parties.

2. Rule. Rule made returnable forthwith by consent of parties.

3. It appears that the whole controversy involved in the petition boils down to one issue : Issue relating to availability of

vacancy on full-time basis is Mathematics subject and the availability of such vacancy in open category.

4. The Petitioner is claiming her entitlement to the upgraded post of full-time Mathematics Assistant Teacher on the ground that workload is available for such upgradation and the Petitioner is eligible for the same. However, it is the stand of the Management that even though there is availability of full-time vacancy in Mathematics subject, the vacancy is reserved for Scheduled Caste Category and not for Open Category. In fact, the Management had sought guidance from Deputy Director, Kolhapur, vide its letter dated 15 October 2018, about this issue. It appears that a specific question was asked to the Deputy Director by the Management as to whether or not the Petitioner could be upgraded to the post of full-time Mathematics subject in open category, but the Deputy Director, by his reply dated 17 November 2018 (page 47), did not give any specific guidance and only stated that if vacancy in open category on full-time basis is not available in Mathematics subject, same may not be filled-up by upgrading the Petitioner to this post.

5. We are of the view that the controversy could be resolved if the Deputy Director revisits the issue and makes an adjudication as regards availability of vacancy in Mathematics subject on full-time basis and its availability in open category.

6. Accordingly, we direct the Deputy Director (Education) Kolhapur, i.e. Respondent No.5, to take a decision regarding availability of vacancy in Mathematics subject for a full-time Assistant Teacher and availability of such vacancy in open category and communicate the same to Respondent Nos. 2 and 3 within a period of twelve weeks from the date of receipt of the order.

7. We further direct that upon receipt of the communication by Respondent Nos. 2 and 3 from Respondent No.5, appropriate decision shall be taken by Respondent Nos. 2 and 3 in the matter, as expeditiously as possible.

8. Rule made absolute in the above terms and the writ petition is disposed of. No costs.

(AMIT BORKAR J.)

(SUNIL B. SHUKRE, J.)