

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 721 OF 2018****Kantayani Vinayak Kandi****..... Petitioner****VERSUS****The State of Maharashtra & Ors.****..... Respondents**

Mr.Sushil A.Inamdar for the Petitioner.

Mr.Vijay Killedar for the Respondent no.4.

Mr.Narendra V.Bandiwadekar, a/w. Mr.Ashok B.Tajane for the Respondent nos. 5 and 6.

Mr.S.B.Kalel, A.G.P. for the Respondent nos. 1 to 3.

CORAM : A.S.CHANDURKAR &**G.A.SANAP, JJ.****DATE : 19TH APRIL, 2022.****P.C:-**

Rule. Rule made returnable forthwith. Heard the learned counsel for the parties.

2. The learned counsel for the petitioner on instruction submits that only prayer clause (c) in the writ petition is being prosecuted. By that prayer, the petitioner seeks a declaration that her services be declared to have been rendered surplus. Statement is accepted.

3. The petitioner is serving as Assistant Teacher at the respondent

no.6 school which is run by the respondent no.5 management. It is the case of the petitioner that the authorities had failed to take any action against the management for various irregularities and hence she had filed Writ Petition No. 9906 of 2015. This Court by the order dated 11th October, 2017 directed the Education officer (Primary) to conduct an enquiry and submit a report to the Deputy Director of Education, Pune. Thereafter the Education Officer (Primary) recommended the action of de-recognition of the said school along with the direction to transfer the students in another nearby school. On 30th December, 2017, the Education Officer (Primary) directed that the petitioner be reinstated and paid arrears of salary. Since this order was not been complied with, the present writ petition has been filed.

4. The Education Officer (Primary) in his affidavit dated 24th September, 2018 has stated that on inspection of the school, it was found that the strength of the students has gone down to 47 and therefore the petitioner is eligible to be declared as surplus. A reference is made to the report dated 7th November, 2017 in that regard. It is submitted by the learned counsel for the respondent no.4 that in view of the pendency of the writ petition, such declaration of the

services of the petitioner being rendered surplus was not made.

5. The learned counsel for the respondent nos. 5 and 6 however submits that the services of the petitioner were otherwise terminated and she had preferred an appeal before the School Tribunal which was subsequently not prosecuted.

6. Since it is only prayer clause (c) that is being considered by which the petitioner seeks a declaration that she is rendered surplus at the respondent no.6 school, by accepting the statements made in affidavit filed by the Education Officer (Primary), it is directed that such necessary declaration of the petitioner being rendered surplus at the respondent no.6 school on account of reduction in the number of students be made by the Education Officer (Primary). Further necessary steps in accordance with law as regards absorption of the petitioner's services shall be taken by the respondent nos. 3 and 4. With these directions, the writ petition is disposed of. Rule accordingly. No costs.

[G.A.SANAP, J.]

[A.S.CHANDURKAR, J.]