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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 563 OF 2019

Ananda Bapu Patil and Ors.

... Petitioners

V/s.

The State of Maharashtra and Ors.

... Respondents

Mr. Prashant Bhavake for the Petitioners

Mr. Ramesh D. Rane for the Respondents Nos. 3 to 5

Ms. S.S. Bhende, AGP for the Respondent Nos. 1 and 2

***CORAM : SUNIL B. SHUKRE &
G.A. SANAP, JJ.***

DATE : 4 APRIL 2022

P.C. :-

Heard the learned Counsel for the parties.

2. Rule. Rule made returnable forthwith. Taken up for final disposal by consent of the learned Counsel for the parties.

3. The Petitioners are the primary teachers working at different schools of Zilla Parishad, Ratnagiri, Sindhudurg and Alibag – Raigad. They all, however, are the natives of Kolhapur District.

Obviously, they are desirous to return to their native places situated in Kolhapur District by seeking their transfers from the establishment of their present Zilla Parishads to the establishment of Kolhapur Zilla Parishad. However, it is seen from the record that even though the respective Zilla Parishads have given their no objection for their Inter District transfers, the Petitioners are facing hurdle of non-availability of vacant posts of primary teachers in sufficient numbers in Kolhapur Zilla Parishad.

4. It is the contention of the learned Counsel for the Petitioners that the hurdle that the Petitioners are facing can be removed if the errors committed in the 2017 Roster are rectified. He submits that in three Rosters of the year 2000, 2008-2009 and 2013, about 316 primary teachers of Kolhapur Zilla Parishad were shown to be appointed on reserved category posts and suddenly in 2017 Roster, they were shown to be appointed on open category posts. It is further submitted that because of the showing of 316 primary teachers as having been appointed on open category posts in the 2017 Roster, no vacancy of primary teacher is presently available in Kolhapur Zilla Parishad and that is the root cause of the misery of the Petitioners. The learned Counsel for the Petitioners submits that there is certainly an error committed by the Officer of Zilla Parishad in showing 316 primary teachers as having been appointed on open category posts in the year 2017, especially when these very teachers

were shown in earlier three Rosters as having been appointed on reserved category posts.

5. The learned Counsel for the Respondent Nos.3,4 and 5 submits that on the directions of this Court, the Respondent No.2 verified the 2017 Roster for its correctness and found that it was correctly prepared and he has also filed his reply to this effect and therefore, now there is nothing which can be done by the Respondent Nos. 3,4 and 5 to give any relief to the Petitioners.

6. We have gone through the reply filed by the Respondent No.2 – the Assistant Commissioner, Backward Class Cell, Pune.

7. Our perusal of reply of the Respondent No.2 has, however, not yielded any fruitful result. In paragraph 5 of the reply, Respondent No.2 has stated that his office checked and verified the documents viz. selection list, service book remarks, appointment letter, caste certificate, caste validity and connected letters submitted by Respondent Nos. 3,4 and 5. On the basis of these documents examined by Respondent No.2, that the Respondent No.2 made a concluding remark in paragraph 9 that the teachers were shown in open category caste, they were initially selected and appointed from the open category. This reply of the Respondent No.2, however, does not clarify as to whether or not the Respondent No.2 had examined the case of each of the primary teachers from the list of

primary teachers numbering 316, which have been shown in Rosters of the year 2000, 2008-2009 and 2013 as having been appointed on reserved category posts. It does not say anything about the correctness or otherwise of the earlier set of the rosters which showed these 316 teachers as having been appointed on reserved category posts. It also does not say anything about the basis on which sudden change occurred while preparing Roster in the year 2017 and these 316 teachers were shown as having been appointed on open category posts. It also does not say if there was any mistake committed in preparing earlier three Rosters or not. These aspects in our view would have to be considered appropriately by Respondent No.2 and if they are considered accordingly, we are of the further view that the grievance of the Petitioners could be redressed appropriately by Respondent Nos. 3,4 and 5. In the result, we find that purposes of this Petition shall stand served by directing the Respondent No.2 to once again verify the 2017 Roster and also the Roster of the years 2000, 2008-2009 and 2013 and decide as to which of the two sets of the Rosters is correct, whether the set of Rosters of the year 2000, 2008-2009 and 2013 or the set comprising the Roster of the year 2017.

8. For this purpose, we direct the Respondent Nos.3,4 and 5 to submit all the necessary documents and record before Respondent No.2 to enable him to verify and take appropriate

decision in the matter. We also direct the Petitioners and the Respondent Nos.3,4 and 5 to appear before the Respondent No.2 for rendering appropriate assistance to him on 11 April 2022. We further direct the Respondent No.2 to take his decision in the matter in accordance with law within a period of eight weeks from the date of appearance of the parties before him. We grant liberty to the Petitioners to make a fresh representation regarding inter-district transfer to the Respondent No.3, in case the decision favours the Petitioners and if such representation regarding inter-district transfer is filed by the Petitioners, the same shall be decided by the Respondent No.3 in accordance with law, without insisting upon submission of fresh NOC by the Petitioners, at the earliest.

9. Rule is made absolute in the above terms. No costs.

G.A. SANAP, J.

SUNIL B. SHUKRE, J.

JYOTI
PRAKASH
PAWAR

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