

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 8065 OF 2021****Shinvar Marhya Vavare****..... Petitioner****VERSUS****The State of Maharashtra & Ors.****..... Respondents**

Mr. Sanjeev Sawant, a/w. Mr.Samir M.Suryawanshi, Mr.Malhar Bageshwar for the Petitioner.

Mr.N.K.Rajpurohit, A.G.P. for the State.

Mr.Ajit M.Suvagave for the Respondent nos. 3 and 4.

CORAM : A.S.CHANDURKAR &**G.A.SANAP, JJ.****DATE : 25TH APRIL, 2022.****P.C:-**

Heard.

2. By this writ petition, the petitioner who was appointed as a Voluntary Teacher at a Vasti School during the period from 4th October, 2000 to the year 2005 has prayed for a direction to be issued to the respondents to grant him benefit of the Government Resolutions dated 31st July, 2009, 1st March, 2014 and the letter dated 4th June, 2016 by granting him appointment on the post of teacher in any primary school run by the Zilla Parishad. By amending the writ petition, the order dated 4th February, 2022 passed by the Chief Executive Officer refusing to grant any appointment to the petitioner is also under challenge.

3. It is the case of the petitioner that having served as a Voluntary Teacher at Vasti School between 4th October, 2000 to the year 2005, when the said Vasti School was closed down, the petitioner is entitled to be appointed on the post of teacher in view of various Government Resolutions that have been issued in the matter of absorption of Vasti School Teachers with the Zilla Parishad. Since the petitioner was seeking benefit of the Government Resolution dated 31st July, 2009, this Court on 19th January, 2022 had directed the Chief Executive Officer, Zilla Parishad, Palghar to examine the issues raised by the petitioner and to take a decision with regard to the petitioner's entitlement. Accordingly the Chief Executive Officer on 4th February, 2022 has passed an order holding that the petitioner was not entitled to the benefit of various Government Resolutions seeking to absorb the service of such Vasti Teachers. In that order it has been stated that after the Vasti School where the petitioner was serving was closed in the year 2005, the petitioner did not take any steps whatsoever for a period of almost 10 years. It is further stated that the petitioner did not acquire the requisite training qualification as per the Government Resolution dated 14th September, 2017. For this reason it was held that

the petitioner was not entitled to be absorbed as a teacher with the Zilla Parishad.

4. The learned counsel for the petitioner submitted that this Court in various decisions has after referring to the Government Resolution dated 31st July, 2009 has granted benefits to such teachers as the petitioner by directing their absorption. Reference was made to the judgment to the judgment dated 13th October, 2010 in ***Writ Petition No. 2254 of 2010*** with connected writ petitions (***Shri Mathaji s/o. Mukunda Kakade vs. The State of Maharashtra & Ors.***). Since the petitioner was similarly situated, there was no reason to deny him the benefit of absorption. Reference was also made to the order dated 3rd October, 2018 passed in ***Writ Petition No.7735 of 2018***. It was thus submitted that the order dated 4th February, 2022 was liable to be set aside and the petitioner was entitled to the relief as prayed for.

5. The learned counsel for the respondent nos. 3 and 4 relied upon affidavit in reply filed by the Education Officer (Primary). He submitted that for a period of 10 years after closure of the Vasti School, the petitioner did not take any steps whatsoever to seek absorption.

Moreover, he was not possessing the requisite qualification as prescribed by section 23 of the Right of Children to Free and Compulsory Education Act, 2009. After considering all relevant aspects, the Chief Executive Office had passed an order dated 4th February, 2022 and the same did not call for any interference. The learned counsel also relied upon the order dated 1st February, 2022 passed in ***Writ Petition No. 8066 of 2021 (Smt.Anusaya Rajaram Korda vs. The State of Maharashtra Through the Secretary, Edu.Dept. & Ors.)*** and submitted that the writ petition was liable to be dismissed.

6. Having heard the learned counsel for the parties and having considered the documents on record, we find that the petitioner has failed to make out any case for interference in writ jurisdiction. Firstly, there has been inaction on the part of the petitioner from the year 2005 when the Vasti School was closed down. For a period of almost 10 years, the petitioner did not take any steps to seek his absorption. This Court in somewhat similar situation has declined to entertain the writ petition in ***Smt.Anusaya Rajaram Korda*** (supra) on account of inaction for a period of almost 13 years. We find that the observations

in the said order can also be applied to the case in hand. There is no explanation whatsoever for the inaction on the part of the petitioner for a period of almost 10 years.

7. Secondly, the petitioner is found not to be duly qualified for being absorbed under the Government Resolution dated 31st July, 2009 and 1st March, 2014. The impugned order dated 4th February, 2022 specifically refers to this aspect while denying any benefits to the petitioner. We find that on this count also the petitioner would not be entitled to any relief whatsoever.

8. The orders on which the petitioner has placed reliance were passed after considering the steps taken by those petitioners for their absorption. However, on account of inaction on the part of the petitioner in the present case as well as absence of requisite qualification, he would not be entitled to such benefit. In that view of the matter, we do not find any merit in the writ petition. It is accordingly dismissed with no order as to costs.

[G.A.SANAP, J.]

[A.S.CHANDURKAR, J.]