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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR
WRIT PETITION NO.785 OF 2022

Ku.Shila Marotrao Dhakate,
Aged 56 years, occupation service,
R/o at post Navargaon,
Tahsil Sindewahi, district Chandrapur. **Petitioner.**

:: V E R S U S ::

1. Zilla Parishad, Chandrapur, through
Chief Executive Officer,
Zilla Parishad, Chandrapur.

2. Education Officer (Primary)
Zilla Parishad, Chandrapur.

~~3. Ku.Neeta M.Kulmethe,
Aged about 45 years, occupation Senior Assistant,
Education Department, Zilla Parishad, Chandrapur.~~

~~4. Shri Nitin Fulzele,
Aged 44, occupation Assistant
Administrative Officer-
(GAD) Zilla Parishad Chandrapur. **Respondents.**~~

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Shri A.A.Dhawas, Counsel for the Petitioner.
Shri M.M.Sudame, Counsel for the Respondent No.1.

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CORAM : **A.S.CHANDURKAR & URMILA JOSHI-PHALKE, JJ.**
DATE : **JUNE 10, 2022**

ORAL JUDGMENT (Per : A.S.Chandurkar, J.)

1. Heard the learned counsel Shri A.A.Dhawas for the petitioner and the learned counsel Shri M.M.Sudame for the respondent No.1. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

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2. It is the case of the petitioner that she was appointed as a Primary Teacher on 11.12.1984 from the Open Category though she belongs to 'Halba' Scheduled Tribe. During course of the service, the petitioner was promoted and the order of promotion dated 8.5.2006 as Higher Grade Headmistress was also from the Open Category. Despite that, the services of the petitioner were placed on supernumerary post on the ground that she had failed to produce her Caste Validity Certificate. In that regard, the petitioner has made two representations dated 18.3.2021 and 9.8.2021 to indicate that since her initial appointment and subsequent promotion were from the Open Category, her services were not liable to be placed on supernumerary post.

3. Shri M.M.Sudame, the learned counsel for the respondent No.1 submits that it would be necessary to examine the record and ascertain whether the petitioner's appointment was from the Open Category or from the Reserved Category.

4. It is not necessary for this Court to go into this aspect for the reason that the petitioner has made two representations dated 18.3.2021 and 9.8.2021 to urge that she was appointed from the Open Category. The interests of justice would be served by directing the Chief Executive Officer, Chandrapur to decide those representations after verifying the record. Accordingly, the writ petition is disposed of by

passing the following order:

ORDER

(1) The respondent No.1 - the Chief Executive Officer, Zilla Parishad, Chandrapur shall consider the representations dated 18.3.2021 and 9.8.2021 as made by the petitioner in accordance with law.

(2) After inspecting the record if it is found that the appointment of the petitioner was from the Open Category, further necessary steps shall be taken.

(3) If the petitioner is aggrieved by the adjudication by the Chief Executive Officer, she is free to take legal recourse in accordance with law.

(4) The aforesaid exercise be completed within a period of eight weeks from the receipt of copy of this order.

The writ petition is disposed of. Rule accordingly.

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)

!! BrWankhede !!

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