



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2756 OF 2024

Bhagwat Sudamrao Shinde And Others

VERSUS

The State Of Maharashtra Through
Its Principal Secretary And Others

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Mr. A. B. Dhongade, Advocate for the Petitioner

Mr. A. B. Girase, GP for Respondent Nos. 1 to 3

Mr. P. B. Vikhe, Advocate for Respondent Nos. 4 to 19

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CORAM : RAVINDRA V. GHUGE &
R. M. JOSHI, JJ

DATE : MARCH 27, 2024

PER COURT :

1. On 12.03.2024, we had passed an extensive order, which reads as under:

1. Yesterday, when the matter was called out, we granted time to the learned Advocate representing Zilla Parishad, Parbhani to take instructions and posted the matter for hearing today.

2. Issue notice to the respondents, returnable on 22nd March, 2024. The learned AGP waives service of notice on behalf of Respondent Nos. 1, 2 and 3. Learned Advocate Mr. Vikhe waives service of notice on behalf of Respondent Nos. 4 to 19.

3. The issue is as regards absorption of surplus teachers. All these Petitioners before us are now declared as surplus. All of them have been permanent in their service. All these Petitioners are working under Zilla Parishad, Parbhani as Primary Teachers and Primary Graduate Teachers in Purna, Palam, Gangakhed, Parbhani, Sonpeth and Selu Talukas in Parbhani District. Vide a letter dated 7th March, 2024, issued by the Chief Executive Officer, Zilla Parishad, Parbhani,

addressed to the Block Development Officer of various Panchayat Samitis, considering the pupil teacher ratio as on 30th September, 2022, absorption of excess teachers is to be undertaken. The impugned letter dated 7th March, 2024, is posted on the official WhatsApp group created by the Education Department of Zilla Parishad on 8th March, 2024 in the night. 8th March, 2024 was a holiday on the occasion of 'Mahashivratri'. The Block Development Officer of Purna, Palam, Gangakhed, Parbhani, Sonpeth and Selu published the list of excess teachers on the WhatsApp group on 9th March, 2024 at 5.00 pm which was a second Saturday.

4. The grievance of the Petitioners is that after the impugned communication to the Block Development Officers dated 7th March, 2024 was published at 4.00 pm on 8th March, 2024, there was a direction issued that the procedure for declaring teachers surplus and their absorption was to be completed by 6.00 pm on 11th March, 2024. It is further stated that the surplus teachers will be subjected to district level absorption procedure on 12th March, 2024 at 10.00 am. Hence, the further grievance of the Petitioners is that they hardly got any opportunity to undergo the counselling sessions which began from 10.00 am on 11th March, 2024.

5. We, prima facie, find that the Zilla Parishad has acted in a very hasty manner. The Taluka level counselling has already taken place. The documents were uploaded on holidays i.e. Mahashivratri – Friday 8th March, 2023 and second Saturday - 9th March, 2023. There was hardly any time for the Petitioners and it is possible that there could be many such/similarly situated candidates who did not get time to express their objections and undergo counselling.

6. In the matters of declaring a candidate surplus, one cannot overlook the agonies that would be suffered by permanent teachers who are declared to be surplus. Their agonies and hardships do not end here. After being declared surplus, they have to suffer loss of actual work for quite some time and there have been instances before us in various petitions where candidates have been sitting idle for a period ranging from three years to ten years. In such matters, the Zilla Parishad should tread cautiously and instead of adopting a pedantic approach, it must exhibit pragmatism.

7. *At this ad-interim stage, we need to balance the equities. Hence, we direct that these Petitioners and similarly situated persons who may not have got an opportunity to express their objections, should be permitted by the Zilla Parishad through its respective officers, to tender their objections in pursuance to the communication dated 7th March, 2024 on 12th March, 2024 until 15th March, 2024 upto 6.00 pm. Thereafter, the counselling for such candidates under Court orders would commence on 18th March, 2024 and would end on 20th March, 2024.*

8. *We are informed that the Zilla Parishad and the Block Development Officers have officially created a WhatsApp group of such teachers. Besides publishing this time table under our orders, the same would also be posted on the official WhatsApp group. We further direct that no transfer order shall be issued until the next date of hearing. If any candidate has been issued with any appointment or transfer order, such candidate shall not join until the next date.*

9. *List this Petition on 22nd March, 2024 in the 'urgent order' category. Considering the apprehension expressed by the learned Advocate for the Zilla Parishad, we record that if the Code of Conduct is imposed on account of the expected Lok Sabha elections, the same would not be an impediment in such matters.*

2. In pursuance to the above directions, the Petitioners have tendered their written objections and have also undergone the counseling sessions. The endeavor of the Petitioners is to convey that the Government Resolution dated 18.05.2011, to the extent of clauses 8 and 9, have not been followed by the Respondent Zilla Parishad. Vide our order dated 15.03.2024, passed in Writ Petition No. 2896/2024

(Sharad Gangadhar Hudge and others Vs. The State of Maharashtra and Others), this Court had recorded the consent of the Zilla Parishad that until Respondent No. 3/Director of Education, Pune completes the exercise of formalizing the staffing pattern, further steps of declaring any teacher surplus, would not be initiated. Based on such consenting statement, this Court directed Respondent No. 3 to ensure that the staffing pattern is formalized and further orders are issued.

3. In the present case, we have also recorded the conduct of the Zilla Parishad, which timed the issuance of the impugned orders on holidays like Mahashivratri, non working Saturday and a Sunday. Under the orders of this Court reproduced above, the objections of the Petitioners were to be received and counseling of the candidates was to be concluded, until 20.03.2024. We, therefore, direct that the Respondent Zilla Parishad would follow the said Government Resolution and would deal with the objections of these Petitioners. After the staffing pattern is formalized, orders of declaring teachers as surplus and orders of absorption shall be passed. All the Government Resolutions/Circulars,

pertaining to absorption, shall be kept in focus by the Zilla Parishad.

4. The Writ Petition is, accordingly, disposed off.

(R. M. JOSHI, J)
Malani

(RAVINDRA V. GHUGE, J)