



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2088 OF 2021

Govind s/o Sambhajirao Kailse
Age: 47 years, Occu.: Service,
R/o.Shete Galli, Loha,
Tq. Loha, Dist. Nanded.

.. PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Education Department,
Mantralaya, Mumbai-32.
2. The Deputy Director of Education
Latur Division, Latur.
3. Education Officer (Secondary),
Zilla Parishad, Nanded.
4. The President/Secretary,
Siddharth Education Society,
Jamb (Bk.), Tq. Mukhed,
Dist. Nanded
(Deleted as per Court order
dated 05.08.2022)

.. RESPONDENTS

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Mr. V. D. Patnoorkar, Advocate for the petitioner.
Mr. Ruchir S. Wani, AGP for Respondent Nos.1 to 3 State.

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**CORAM : MANGESH S. PATIL AND
SHAILESH P BRAHME, JJ.**

DATE : 10 JUNE 2024

ORDER [Per Shailesh P. Brahme, J.] :-

1. Heard both the sides finally at the stage of admission.
2. Petitioner is challenging the communication dated 04.12.2020
issued by respondent No.3 Education Officer refusing to accommodate

the petitioner in any unaided secondary school of Nanded district. He is also seeking direction to release salary from 10.06.2006 and to include his name in the list of surplus teachers of unaided schools in Nanded district.

3. It is the case of the petitioner that he was working in the secondary school of the respondent No.4, which was unaided. He was appointed by order dated 01.07.1996 and continued further. His appointment was approved by Education Officer by letter dated 01.01.2020 on non grant basis with effect from 10.06.2006. The school of the respondent No.4 was de-recognized thereby rendering him as surplus. He made various representations to the respondents for accommodating him in any of the unaided schools of Nanded district. Ultimately, by impugned order, his request was rejected.

4. Learned Counsel for the petitioner submits that impugned communication is arbitrary. The petitioner is an approved permanent employee, who is not responsible for de-recognition and is entitled to be absorbed in any unaided school. He seeks to rely upon Circular dated 28.06.2016. Learned Counsel also places reliance on Government Resolution dated 12.06.2007.

5. Learned AGP supports impugned communication by filing affidavit-in-reply. It is contended that the petitioner is not entitled to absorption in any schools because he was working in an unaided

school, recognition of which was withdrawn. It is further contended that Circular dated 28.06.2016 pertains to transfer of teachers from unaided school to aided school. It speaks about transfer from one school to another school run by the same education society. Hence, it is not applicable.

6. Undisputedly, petitioner rendered services in unaided school. His approval also indicates that he was given continuity from 10.06.2006 on unaided basis. The recognition of the school was withdrawn and there is no other school being run by the same education institution for accommodating the petitioner.

7. We have perused Circular dated 28.06.2016, which pertains to transfers. Learned AGP is right in contending that the circular cannot be made applicable, because it speaks about the transfer from one school to another run by the same management. We have also considered Government Resolution dated 12.06.2007. Its clause No.4 stipulates that absorption of the approved teachers should be subject to the provisions of Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. We do not find any express provision in the Government Resolution stipulating absorption of the teachers from de-recognized unaided school to any unaided school in the district.

8. We find that Rule 25A and 26 of Rules of 1981 framed under

Section 16 of the Act of 1977 referred to above lay down the procedure of retrenched employee of de-recognized schools and their absorption. Pertinently, Rule 25A and 26 contemplates accommodation of retrenched employee of de-recognized aided schools. There is no statutory provision regarding absorption of employees of unaided school. In that view of the matter, we are unable to accede to the submissions of the petitioner in respect of his challenge to the impugned communication and seeking direction to absorb him in the school.

9. Petitioner all the while rendered services in unaided school and his approval is also on the unaided basis. In such a situation, there is no obligation cast on the respondent No.3 Education Officer to either release the salary or salary grants for the period rendered by the petitioner in the school. It is the obligation of the respondent No.4, who used to run the school in question to pay salary to its employee. Therefore, we are unable to grant relief of payment of salary to the petitioner.

10. The writ petition is devoid of any substance and is dismissed.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

scm