



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10260 OF 2017

Mujeeb s/o Chandpasha Shaikh
Age: 28 years, Occu.: Service,
R/o. Sale Galli, Latur,
Tq. And Dist. Latur.

.. PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Secretary,
Education Department,
Mantralaya, Mumbai-32.
2. The Education Officer (Secondary)
Zilla Parishad, Latur,
Tq. And Dist. Latur.
3. The Head Master,
Shivaji Madhyamik Vidyalaya Latur,
Saraswati Colony, Latur,
Tq. And Dist. Latur.
4. The Secretary,
Shri. Shivaji Shikshan Prasarak
Mandal, Saraswati Colony, Ausa
Road, Latur, Tq. And Dist. Latur.

.. RESPONDENTS

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Mr. T. M. Venjane, Advocate for the petitioners.

Mr. S. J. Salgare, AGP for respondent Nos.1 and 2 – State.

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

DATE : 8th MAY, 2024.

ORDER [Per Smt. Vibha Kankanwadi, J.] :-

- . The matter is now circulated for withdrawal of petition.
2. Learned Advocate for the petitioner, by placing a copy of communication between respondent No.3 to respondent No.2 dated 10.01.2024, has stated that fresh proposal has been sent in respect of approval to the appointment of the petitioner and in view of the same, the petitioner has given instructions to him to withdraw the petition. He, therefore, prays for withdrawal of the petition.
3. In the normal course, we would have so allow without passing a lengthy order, but here, in this case, the writ petition is pending since 2017, wherein the petitioner has prayed for quashing and setting aside the order dated 20.01.2017 passed by respondent No.2 and to direct him to grant approval for the post of Assistant Teacher, on which the petitioner is working.
4. The petitioner had come with the case that he came to be appointed under order dated 05.07.2013 in pursuant to the recruitment process undertaken under advertisement dated 23.10.2012. The petitioner was initially appointed for three years on probation. It appears that by communication dated 04.02.2014 proposal was sent to respondent No.2 to accord approval to the appointment of the petitioner. The said proposal came to be rejected

by order dated 20.01.2017 on the ground that there are about 117 surplus teachers to be absorbed in Latur district. The said order was under challenge in this petition. From the present communication dated 10.01.2024, which is now marked as Exhibit-'X', it appears that there was another proposal sent by respondent No.3 to respondent No.2 on 26.12.2014. There is no reference to this proposal and the pendency thereof in the entire petition.

5. Notices were issued and respondent No.2 Education Officer has filed affidavit-in-reply, wherein objection has been taken to the writ petition and categorical statements have been made that no illegality or error has been committed in passing the impugned communication. The same fact about 117 surplus teachers yet to be absorbed in the entire district was pleaded. When two proposals as per letter Exhibit-'X' are pending with respondent No.2, there was no question of filing a fresh proposal by respondent No.3 with respondent No.2, but it appears that on or around 10.01.2024, one more proposal has been submitted (in spite of specific rejection of the earlier proposal, which is under challenge in this writ petition).

6. We cannot insist the petitioner to proceed with the matter, when he has no desire. Therefore, there is no hurdle in disposing of the petition, but the facts are to be brought on record that we have not yet set aside the impugned order dated 20.01.2017. If the said

proposal is presented to respondent No.2, then respondent No.2 may go ahead of deciding it, but he should take into consideration the facts narrated in the present order.

7. For the aforesaid reasons, the writ petition stands disposed of as withdrawn.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm