

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 13889 OF 2022**

Shri. Rajendrakumar Kundalik Khade and Others ... Petitioners

versus

The State of Maharashtra and Others ... Respondents

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Mr.Nagesh Chavan with Mr.Tukaram Shendge i/b. Mr.Rahul Khot  
for the Petitioners.

Mr.V.M.Mali, AGP for Respondent Nos. 1 and 2-State.

Mr.Sumit Kate i/b. Dr.Uday Warunjikar for Respondent Nos.3 and  
4.

Mr.Nilesh Desai for the Applicants in IA (St.) No. 26521 of 2023.

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**CORAM : NITIN JAMDAR &  
M.M.SATHAYE, JJ.**

**DATE : 23 JANUARY 2024**

**P.C.:**

The Petitioners, 10 in number, are seeking a direction that they should be promoted to the post of Headmaster in the Primary Schools run by Zilla Parishad, Satara as per Government Resolution dated 28 August 2015 issued by Respondent No.1- State of Maharashtra.

2. It is the case of the Petitioners that the Petitioners were initially appointed as Assistant Teachers in the Primary Schools and

thereafter, they were promoted as Headmasters in the respective Primary Schools. After enactment of the Right of Children to Free and Compulsory Education Act, 2009, policy of the staffing pattern was changed. Based on which, the sanctioned posts of teaching and non-teaching staff have been clarified. Because of the said policy, the Petitioners were declared as surplus and they were demoted to the post of Assistant Teachers as they held prior to their promotion.

3. According to the Petitioners, as per policy of the Government, whenever there is vacancy in such Schools, the Petitioners would have a preferential right of promotion to those posts. The intervention application is filed by other teachers stating that the claim of other teachers for promotion should not be completely kept out of consideration.

4. We note that there is ad-interim relief operating in this petition since 5 November 2020. While granting ad-interim relief, the Division Bench of this Court directed that Respondent Nos. 3 and 4 shall not fill vacant post of Headmaster in the Primary Schools run by Zilla Parishad, Satara either by way of appointment or by way of promotion. This position which has continued since 5 November 2020 does not benefit either the Petitioners or the schools and students taking education.

5. According to us, appropriate course of action for the Respondent- Zilla Parishad would be to proceed with the process of

appointing the Headmasters after considering the claim of the Petitioners and other Claimants. For that purpose, the Respondent – Zilla Parishad, before proceeding to fill up the vacant post of Headmaster in the Primary Schools, will give adequate publicity and after considering the claim of the Petitioners and other Claimants, fill up the vacant post of Headmaster. This exercise will be carried out as per the governing statute and government policy of the State.

6. With this observation, the writ petition is disposed of.

7. The Respondent – Zilla Parishad shall initiate necessary process within a period of four weeks from today as the posts cannot be kept vacant.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)