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

***WRIT PETITION NO. 9709 OF 2021***

Pandurang Janardhan Kale

... Petitioner

V/s.

State of Maharashtra and Ors.

... Respondents

Mr. S.G. Kudle for the Petitioner

Ms. A.A. Purav, AGP for Respondent Nos. 3 and 4

Mr. Sachin Thorat for Respondent No.4

Mr. Laxman S. Deshmukh for the Respondent No.5

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

***DATE : 08 MAY 2024***

**P.C. :-**

The Petitioner has challenged the order passed by the Deputy Director of Education dated 22 December 2020. The post in question for which both the Petitioner and the Respondent No.5 are contesting is of Head of the School of Respondent No.4.

2. It is the case of the Petitioner that the Petitioner belonging to the reserved category is entitled for the post of Head by

virtue of 33% reservation. The approval was granted to the appointment of Respondent No.5 which upon complaint made by the Petitioner was cancelled. The Respondent No.5 filed the Writ Petition bearing No. 10613 of 2005 which was disposed of by order dated 27 February 2020 setting aside the order cancelling the approval of the Respondent No.5 and to decide the complaint made by the Petitioner. Thereupon, the Deputy Director of Education held a hearing gave opportunity to the Petitioner and the Respondent No.5 and passed the impugned order.

3. In the impugned order, the Education Officer states that the order once passed cannot be cancelled by the Education Officer and appropriate orders be passed. A decision of the Deputy Director, which in fact is no decision, is that till a Government Resolution is issued regarding promotion in respect of a backward class candidate, no order can be passed.

4. The learned Counsel for the Petitioner has rightly made a grievance that the merits of the complaint have not been looked into at all. According to the learned Counsel for the Petitioner, because of this methodology, the Respondent No.5 who is not entitled is continuing on the post. The learned Counsel for the Respondent No.5 contends that the Respondent No.5 is entitled to hold the post.

5. Be that as it may, the Deputy Director of Education has clearly not followed the orders of this Court to take a decision on merits. In the light thereof, we will have to specify a time period within which decision on merits will have to be taken.

6. Accordingly, we set aside the impugned order dated 22 December 2020, restore the complaint of the Petitioner which the Deputy Director will decide on merits and pass a reasoned order within a period of six weeks from today.

7. The Writ Petition is accordingly disposed of.

*M.M. SATHAYE, J.*

*NITIN JAMDAR, J.*

JYOTI  
PRAKASH  
PAWAR

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