IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14067 OF 2017

Khelbude Babasaheb Ashok …Petitioner

Versus

State of Maharashtra And Ors. …Respondents

…….

Mr. Satyajeet A. Rajeshirke, for Petitioner.
Mr. S.B. Kalel, AGP for Respondent Nos. 1 to 3.
Mr. Shrishail Sakhare, for Respondent No. 5.
Mr. Ashok Misal for Respondent No.4.

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HUSENBASHA RAHAMAN NADAF
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CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.

DATE : 6 FEBRUARY 2024

P.C.:

. Heard the learned counsel for the parties.

2. The Petitioner has challenged the order passed by the Education Officer (Primary), Zilla Parishad, Solapur dated 14 March 2017 and 16 December 2017. By these orders, proposal sent by Respondent – Management seeking approval to the Petitioner's appointment was rejected. Rejection is addressed to the Respondent – Management, who should have filed a writ petition challenging this order or at least filed this Petition along with present Petitioner and Teachers. The learned counsel for the Respondent – Management states that the Management is supporting the cause of

the Petitioner. It is the case of the Respondent – Management that the ground given in the impugned order that there were surplus Teachers needed to be absorbed and since this process was not complete, approval could not be granted, is not factually correct and will not apply to the Respondent – Management. It is submitted that as Respondent - Management had made all the efforts of communicating to the Education Officer to send surplus Teachers and since they were not sent, Respondent – Management had no option but to appoint the Petitioner. The learned counsel for the Respondent – Management also submits that the subsequent surplus Teachers have been absorbed.

3. The impugned order is of the year 2017. It is now almost 7 years since the impugned order has been passed. As pointed by the counsel for the Respondent – Management, there are subsequent developments of absorption of surplus Teachers. The learned counsel for the parties also relied upon decisions of this Court regarding reasonable efforts to be made by the Respondent – Management and implications of not sending the surplus Teachers.

4. In these circumstances, we set aside the impugned orders dated 14 March 2017 and 16 December 2017 and permit the Respondent – Management to revive their proposal sent on 21 September 2016. On that proposal, if the Respondent – Education Officer is proposing to pass any adverse order, he will give the proposed grounds of rejection to the Respondent – Management, which will be

entitled along with the Petitioner to submit their explanations with copies of judgments of this Court. The Respondent – Management can place on record the position after the proposal of year 2016. The Education Officer after receipt of the explanations so received from the Respondent – Management and the Petitioner, will pass appropriate order giving reasons and dealing with the judgments cited within a period of 8 weeks subject to earlier time bound commitment.

5. Writ petition is accordingly disposed of.

(M.M. SATHAYE, J.) **(NITIN JAMDAR, J.)**