



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

WRIT PETITION NO. 1085 of 2024

Kiran Munishwar Wanjari

vs.

The Education Officer (Secondary), Zilla Parishad, Nagpur and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri P. N. Shende, Advocate for petitioner.

Shri Amit Madiwale, Assistant Government Pleader for respondent no.1.

CORAM :- NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE :- 15th FEBRUARY, 2024.

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Heard.

2. A prayer in the petition is for quashing and setting aside of the communication/order dated 29.01.2024 issued by the respondent no.1-Education Officer. By the said communication the petitioner came to be declared as surplus and he is directed to absorb in another school namely Sant Kabir Vidyalaya.

3. Mr. Shende, learned counsel appearing for the petitioner, has canvassed two fold contentions, namely (a) in view of provisions of sub-rule (8) of Rule 26 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulations Rules, 1981 (for short, MEPS Rules) the petitioner in case if joins at the place where his services are absorbed after retrenchment, he loses his seniority and (b) that the other candidates (teachers), who are juniors to the petitioner namely (1) Mr. Pravin Navrang and (2) Ms Vanashri Ruprao Raut, who were appointed in Open category, would retain and as such, the principle of last come first go would not follow.

4. Mr. Madiwale, learned Assistant Government Pleader appearing for the respondent no.1 opposed the aforesaid contentions.

5. We have perused the Scheme of Rule 26 of the MEPS Rules. The support drawn from the provisions of sub-rule (8) of Rule 26 will not be attracted in the facts of the present case as sub-rule (8) would come into effect only after the compliance of the mandate under sub-rules (4), (5) and (6) is made. It is not the case of the petitioner that after he was declared surplus, the respondent no.2 has offered him re-employment. As such, the said contention stands rejected.

6. As far as other contention that the candidates(teachers) namely (a) Mr. Pravin Navrang and (b) Ms Vanashri Raut who were appointed from the open category are juniors to the petitioner, it appears that the said persons are not impleaded as party respondents in the petition so as to verify the said fact. These candidates (teachers) should have been necessary parties to the petition.

7. Leave apart, the fact that the order of declaration of surplus prompts the petitioner to travel only 20 km extra, in our opinion would not cause any prejudice to the petitioner and as such we refrain ourselves from exercising extra ordinary jurisdiction. The writ petition thus stands dismissed. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.