



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4613 OF 2024

Dilip s/o Pandurang Sapkale
Age 56 years, Occ. Service
R/o Near Ram Mandir,
Gopal Krushna Nagar,
Malkapur, Buldana – 443101



.. Petitioner

Versus

- 1) The Chief Secretary,
General Administration Department,
Mantralaya, Mumbai – 32
- 2) The Deputy Director of Education,
Amravati Division, Amravati
- 3) The Education Officer (Secondary),
Zilla Parishad, Buldana
- 4) The President,
Gram Sewa Samiti, Shelapur Bk.,
Tah.Motala, District Buldana
- 5) The Head Master,
Shri Anantrao Saraf Vidyalaya,
Shelapur Bk., Tah. Motala,
District Buldana
- 6) The Assistant Commissioner
(Backward Class Cell),
Divisional Commissioner Office,
Old Bypass Kanta Nagar,
Amravati Division, Amravati



.. Respondents

Mr. S.R.Narnaware, Advocate for petitioner.

Mr. S.M.Ukey, Addl.G.P. for respondent Nos.1 to 3 and 6.

**CORAM : BHARATI DANGRE AND
ABHAY J. MANTRI, JJ.**

DATED : SEPTEMBER 30, 2024

ORAL JUDGMENT (Per : Bharati Dangre, J.)

Rule. Rule is made returnable forthwith. Heard finally by the consent of the learned counsel appearing for the parties.

(2) The petition raised a challenge to a communication from the Assistant Commissioner Backward Cell, Amravati addressed to the Deputy Director of Education, Amravati, in regards to the implementation of the decision of the Apex Court in the case of ***Chairman and Managing Director FCI and others vs. Jagdish Balaram Bahira and others, [Civil Appeal No.8928/2015*** decided on ***06/07/2017***].

(3) On the proposal of the petitioner being forwarded from the Gramsevak Samiti, Shelapur Bk., Tahsil Motala, District Buldhana, the Additional Commissioner notified the following deficiency :-

- (a) The petitioner Dilip Sapkale was appointed on 09/07/1992 on the post of Assistant Teacher from Scheduled Tribe category and by Resolution passed by the Society on 30/03/2021, approval was granted for his appointment to

the post of Headmaster.

In relation to the aforesaid clause, the Assistant Commissioner opined that the action is not in terms of Government Resolution as in this case instead of absorbing him by creating a supernumerary post, he stood promoted as Headmaster and therefore, this decision is contradicting the policy decision of the State Government.

(4) Mr.Narnaware, learned Counsel for the petitioner placed reliance upon the following decisions of the Division Bench of this Court :-

- (a) *Moreshwar s/o Ramchandra Hadke vs. The State of Maharashtra and others and another in Writ Petition No.14820/2021 dated 16/03/2022.*
- (b) *Namdeo s/o Dashrath Nikhare vs. Secretary, Public Works Department, Mantralaya Mumbai and others in Writ Petition No.547/2021 decided on 23/03/2022.*
- (c) *Ku.Sangita d/o Ramdas Bahirseth vs. The State of Maharashtra in Writ Petition No.631/2020 decided on 29/09/2023.*

All the decisions being based upon the applicability of the Government Resolution dated 15/06/1995 and the subsequent Government Resolution dated 21/12/2019, considering the long length of service rendered by the petitioner and since the decision was taken

long back, to promote the petitioner as Headmaster by granting the benefit of the Government Resolution dated 15/06/1995 and he continued to be in service, in our view, the impugned decision do not stand the scrutiny and the test of law laid down by the various authoritative pronouncements, few of which we have made reference to above.

(5) In the wake of above, the impugned communication dated 20/10/2022 is quashed and set aside.

Needless to state that the petitioner shall be entitled for protection of his services as Headmaster being absorbed against Open Category, in the wake of benefit that was extended to him by Government Resolutions issued from time time.

(6) The Rule is made absolute in terms of prayer clauses (ii) and (v). No order as to costs.

[ABHAY J. MANTRI, J.]

[BHARATI DANGRE, J.]