

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

WRIT PETITION NO. 8119 OF 2023

Ku. Jayeshri Ramkrishna Ingle

Vs.

Zilla Parishad, Amravati through its Chief Executive Officer, Amravati and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.S. Patil, Advocate for petitioner

Shri Sunil Shinde, Advocate for respondent Nos. 1 & 2

CORAM : AVINASH G. GHAROTE AND
SMT M.S. JAWALKAR, JJ.

DATE : 05/04/2024

P.C.

Heard Shri Patil, learned Counsel for the petitioner
and Shri Sunil Shinde, learned Counsel for the respondents.

2. The petitioner challenges the communication dated 18/10/2023 (Page No. 37), by which, the petitioner who is senior, has been declared as surplus, as there are two teachers in the respondent No. 3 - School, teaching science subject.

3. Mr. P.S. Patil, learned Counsel for the petitioner submits, that the Government Resolution dated 18/05/2011 (Page No.48), which is being relied upon by the respondents, is in fact, inapplicable as it deals with absorption and transfer of teachers in primary school and therefore, the same is not attracted. What according to him is applicable, is the Government Resolution dated 28/08/2015 (Page No. 26),

according to which, the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, is applicable.

4. Without going into the controversy as to the applicability of any Government Resolution, since Shri Sunil Shinde, learned Counsel for respondents admits, that there is no Government Resolution governing the position in this regard vis-a-vis secondary school, and considering the admitted position that the petitioner, who was appointed as a science teacher on 14/08/2020, as against which Ku J.D. Narkhede, who is also teaching science, was appointed on 05/10/2020, later in point of time than the petitioner, it would be governed by the principle of “last come first go” and, therefore, considering this, since there is only one sanctioned post of science teacher, the petitioner cannot be declared as surplus. In light of the above, the communication dated 18/10/2023 (Page No. 37), and the list annexed therewith in so far as it relates to the petitioner showing her to be surplus, is quashed and set aside.

5. The petition is accordingly allowed in the above terms. No costs.

JUDGE

JUDGE