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

WRIT PETITION NO. 8112 OF 2023

Manohar Nagnath Mundhe
Vs.
Zilla Parishad, Amravati through its Chief Executive Officer, Amravati and another

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. 38), by which, the petitioner who is senior, has been declared as surplus.

3. Mr. P.S. Patil, learned Counsel for the petitioner submits, that the Government Resolution dated 18/05/2011 (Page No.47), 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. 24), 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 had joined the school as an In-charge Headmaster of the School on 15/07/2016 as against which, Shri S.S. Jawanjal, who is teaching subject Mathematics joined the School on 04/07/2019, later in point of time than the petitioner, it would be governed by the principle of "last come first go" and, therefore, considering this, the petitioner who was holding the post of In-charge Headmaster, the petitioner cannot be declared as surplus. In light of the above, the communication dated 18/10/2023 (Page No. 38), and the list annexed therewith in so far as it relates to the petitioner showing him to be surplus, is quashed and set aside.

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

JUDGE **JUDGE**

Jayashree..