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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3735 OF 2023**

1. The Head Master)
Nizampur High School)
Nizampur, Tal : Sangola,)
District: Solapur)
)
2. Raje Sambhaji Shikshan Va Krida)
Prasarak Mandal, Nizampur,)
Through its President)
Tal: Sangola, Dist. Solapur) ... Petitioners

V/s

1. The Education Officer,)
(Secondary) Zilla Parishad)
Solapur at Solapur.)
2. Deputy Secretary)
Maharashtra State Commission)
For Women Grihanirman Bhawan)
(MHADA), Kala Nagar, Bandra (E))
Mumbai.)
)
3. Meenakshi Sahebrao Patil)
Age 50 years, Occ: Service)
R/o. Datta Nagar, Sangola Tal: Sangola)
Dist. Solapur)
)
4. The State of Maharashtra)
Through School Education and Sports)
Department, Mantralaya, Mumbai-400032)Respondents.

**WITH
WRIT PETITION NO.12112 OF 2017**

- Meenakshi Sahebrao Patil)
Age: 45 years, Occ: Teacher,)
R/o: Dattanagar, Taluka Sangola,)
District Solapur.) ...Petitioner.

Versus

- | | | |
|----|--|--------------------|
| 1. | The President, |) |
| | Raje Sambhaji Shikshan and |) |
| | Krida Prasarak Mandal, Nizampur |) |
| | Tal. Sangola, District: Solapur |) |
| 2. | The Head Master, |) |
| | Nizampur High School, Nizampur, |) |
| | Tal. Sangola, District Solapur |) |
| 3. | The Education Officer (Secondary), |) |
| | Zilla Parishad, Solapur, having office |) |
| | at Zilla Parishad Compound, Solapur |) |
| 4. | State of Maharashtra |) |
| | Through Secretary, School, Education and |) |
| | Sports Department, Mantralaya |) |
| | Mumbai – 400032 |) Respondents |

Mr. Anant Vadgaonkar, Advocate for the petitioner in Writ Petition No.3735 of 2023 and for the respondent nos. 1 and 2 in Writ Petition No.12112 of 2017.

Mr. Shrirang Katneshwarkar a/w Mr. Vivek Chauhan, Advocates for the petitioner in Writ Petition No.12112 of 2017, for the applicant in Civil Application No.1844 of 2018 and for the respondent no.3 in the Writ Petition No.3735 of 2023.

Mr. N.C. Walimbe, Additional Government Pleader a/w Mr. S.B. Kalel, Assistant Government Pleader for respondent nos. 1 and 4 in Writ Petition No.3735 of 2023.

Mr. S.P. Kamble, Assistant Government Pleader for the respondent nos. 3 and 4.

**CORAM : A. S. CHANDURKAR &
M. M. SATHAYE, JJ.**

DATED : 24th APRIL 2025

ORAL JUDGMENT (Per A. S. CHANDURKAR, J):

1. Rule. Rule made returnable forthwith. Heard finally by the consent of learned Counsel for the parties.
2. In Writ Petition No. 12112 of 2017, a challenge is raised to the communication dated 31/10/2017 issued by the Education Officer (Secondary), Zilla Parishad, Solapur by which the services of various Assistant Teachers were declared as surplus. The petitioner in Writ Petition No.12112 of 2017 is shown at serial no. 49 of the said list. While issuing notice in the Writ Petitions, this Court on 10/11/2017 granted ad-interim relief and directed the parties to maintain status quo.
3. Today, the learned Additional Government Pleader on instructions from the concerned Education Officer (Secondary), submits that the petitioner is still working as Assistant Teacher at the Respondent No. 2 - School on a sanctioned post. He therefore submits that as of today the petitioner cannot be treated to be surplus at the School. He further submits that if the services of the petitioner are continued at the same school, she would continue to receive her regular salary. The communication dated 07/04/2025 issued by the Education Officer (Secondary) Zilla Parishad, Solapur to that effect is taken on record and marked "A" for identification.
4. In view of this stand of the Education Officer which is accepted, it is declared that the impugned communication dated 31/10/2017 by which the services of the petitioner were treated as surplus, would not operate as against the present petitioner. Needless to state that the petitioner would continue to serve as Assistant Teacher at the Respondent No. 2-School and would also continue to receive her regular salary. The Education Officer

(Secondary) shall accordingly issue a consequential order of repatriation of the petitioner.

5] Writ Petition No.3735 of 2023 has been preferred by the Headmaster, Nizampur High School as well as the Public Trust that runs the aforesaid School. According to the petitioners, the respondent no.3 who is the petitioner in Writ Petition No.12112 of 2017 had made various grievances with regard to the treatment meted out to her while discharging duties as Assistant Teacher. She therefore filed a complaint before the Maharashtra State Commission for Women. Cognizance of the said complaint was taken and the Education Officer (Secondary) on 21/12/2022 called upon the Headmaster of the School to take steps to redress the grievances of the said Assistant Teacher and thereafter report compliance. Since the Education Officer was of the view that appropriate steps were not taken by the Headmaster, a communication dated 30/01/2024 was issued by the Education Officer (Secondary) to the Superintendent, Pay Unit, Solapur to stop the salary of the Headmaster until necessary compliance was made. The communications dated 21/12/2022 and 30/01/2024 issued by the Education Officer (Secondary) in that regard are challenged in this writ petition.

6] During pendency of the present proceedings, it was found that according to the Education Officer (Secondary), services of the petitioner in Writ Petition No.12112 of 2017 were not now liable to be declared as surplus. The learned counsel for the said Assistant Teacher on instructions made a statement that the said petitioner would seek withdrawal of the complaint made by her before the Maharashtra State Commission for Women. Today, the learned counsel has tendered a copy of the communication dated 20/04/2025 addressed to the Maharashtra State

Commission for Women that she did not desire to pursue the aforesaid complaint. The said communication is stated to have been sent to the Commission by speed post on 23/04/2025. The said communication dated 20/04/2025 with the postal receipt is taken on record and marked "B" for identification.

7] We therefore find that when the services of the petitioner in Writ Petition No.12112 of 2017 being found not to be surplus coupled with withdrawal of the complaint made by her to the Maharashtra State Commission for Women, the purpose of filing Writ Petition No.3735 of 2023 stands served.

8] In view of the aforesaid, the following order is passed:-

(i) In view of the communication dated 07/04/2025 issued by the Education Officer (Secondary), Zilla Parishad, Solapur it is held that the services of the petitioner in Writ Petition No.12112 of 2017 are no longer surplus as she is discharging her duties on a sanctioned post. Consequentially, the impugned communication dated 31/10/2017 issued by the Education Officer (Secondary) shall not operate against the said petitioner. An order of re-patriation of the said petitioner shall be passed by the Education Officer (Secondary).

(ii) Since the petitioner in Writ Petition No.12112 of 2017 has withdrawn the complaint made by her before the Maharashtra

State Commission for Women, the impugned communications dated 21/12/2022 and 30/01/2024 are quashed. Consequential steps shall be taken by the Education Officer (Secondary) including the release of arrears of salary, if any, and updation of the service book of the Headmaster.

(iii) Rule is disposed of in the aforesaid terms in both the writ petitions with no order as to costs.

All concerned to act on a duly authenticated or digitally signed copy of this judgment.

(M. M. SATHAYE, J.)

(A. S. CHANDURKAR, J)