



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6509 OF 2020

Chetan S/o Milind Pandav,
Age : 31 years, Occu. : Assistant Teacher,
R/o. Sakegaon, Tq. Bhusawal,
Dist. Jalgaon

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through its Secretary,
School Education Department,
Mantralaya, Mumbai – 32.
- 2] The Education Officer (Secondary),
Zilla Parishad, Jalgaon
- 3] Waghur Shikshan Prasarak Mandal,
Sakegaon Through its Chairman,
Dilipsingh S/o Pratapsingh Patil,
Age : 53 years, Occu : Chiarman,
R/o. Sakegaon, Tq. Bhusawal,
Dist. Jalgaon
- 4] Bhadu Rupchand Patil,
Age : 83 years, Occu : Secretary,
Waghur Shikshan Prasarak Mandal,
Sakegaon, R/o. Sakegaon, Tq. Bhusawal,
Dist. Jalgaon
- 5] Indira Gandhi Madhyamik Vidyalaya,
Through its Headmaster,
Sakegaon, Tq. Bhusawal,
Dist. Jalgaon

.. Respondents

AND

CIVIL APPLICATION NO. 154 OF 2022 IN WP / 6509 / 2020

(Waghur Shikshan Prasarak Mandal and anr. V. Chetan Milind Pandav and ors.)

...

Advocate for petitioner : Mr. R.I. Wakade
Addl.GP for the respondent – State : Mr. P.S. Patil
Advocate for respondents no. 3 and 4 : Mr. S.V. Dixit
Advocate for respondent no. 5 : Ms. Nayana Patil h/f. Ms. Surekha Mahajan

...

**CORAM : KISHORE C. SANT AND
JITENDRA JAIN, JJ.**

**RESERVED ON : 29 SEPTEMBER 2026
PRONOUNCED ON : 06 OCTOBER 2026**

JUDGMENT (PER – JITENDRA JAIN, J.) :

Rule. Rule made returnable forthwith. With the consent of the learned counsel for the parties, the petition is heard finally.

2. This Petition is filed under Article 226 of the Constitution of India by the petitioner – Assistant Teacher against respondents no. 3 to 5 – education institute and management seeking direction to pay salary of the petitioner from the date of his appointment and further to continue to pay the monthly salary.

Brief Facts :-

3. The petitioner, on 10.06.2013, was appointed as Assistant Teacher with respondent no. 5 school pursuant to an advertisement dated 27.05.2013. The Education Officer – respondent no. 2 granted approval to the appointment of the petitioner on unaided division vide communication dated 14.08.2013.

4. The appointment of the petitioner was challenged in Writ Petition No. 1675 of 2014. The said Writ Petition along with connected Writ Petition No. 1647 of 2014 was disposed of by this Court on 08.04.2015 by a detailed order whereby the petitions were dismissed and the appointment of the petitioner was approved. The said order

was challenged by the education institute and management by filing a Special Leave Petition which too came to be dismissed on 08.12.2015.

5. The petitioner having succeeded in his appointment still was not paid the salary by respondents no. 3 to 5 inspite of approaching the education institute. It is on this backdrop that the present petition is filed seeking prayers for payment of salary from 2013 onwards.

6. Learned counsel for the petitioner submitted that his appointment was in accordance with law since the advertisement was followed by approval by the Education Officer and resolution of the management. He further submitted that his approval was challenged and this Court in Writ Petition No. 1675 of 2014 has approved the same and the Special Leave Petition filed against the said judgment is also dismissed. He further relied on a letter dated 22.04.2015 whereby the Headmaster of the school has communicated to the management that the petitioner should be paid as per the pay scale specified therein. Learned counsel for the petitioner, therefore, prayed for allowing the petition in terms of the prayers sought therein.

7. Learned counsel, Mr. Dixit for respondents no. 3 and 4 vehemently opposed the Petition. He submitted that certain submissions were not considered while disposing Writ Petition No. 1675 of 2014 and, therefore, he is entitled to oppose the present

petition. He submitted that the petitioner does not possess the qualification of clearing the Teacher Eligibility Test (**TET**) examination which is mandatory and, therefore, the petitioner's appointment is illegal. He further submitted that the earlier management is responsible for the payment of the salary since the appointment was made by the earlier management contrary to the procedure required for the appointment. He submitted that the appointment is contrary to schedule 'A' to Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. Alternatively, he submitted that since the petitioner does not possess the TET qualification, he is entitled to the salary by treating as 'untrained teacher'. He placed reliance on the decision of this Court in the case of **Salunkhe Jayawant Vishnu and others Vs. State of Maharashtra and others**¹. He further, alternatively, submitted that the claim for the period prior to the expiry of three years from the date of filing the Petition is barred by limitation. He also submitted that the Institute is not in a good financial position to pay the salary. He, therefore, prayed for dismissal of the Petition.

8. We have heard learned counsel for the petitioner and the respondent – education insitutite and the management.

9. The issue of legality of appointment of the petitioner was the subject matter of adjudication by this Court in Writ Petition No. 1675 of 2014. This Court, by a detailed order, after considering all the

¹ 2019(1) Mh.L.J. 506

submissions of the management / institute has rejected the submissions and approved the appointment of the petitioner. The Special Leave Petition filed against the said order has also been dismissed. This Court, in paragraph no. 11 has observed that there is no dispute that the respondents therein (petitioner herein) possess the requisite qualification for his appointment on said post. This Court in paragraph no. 14, has also considered the submission on appointment by the earlier management which was in power at the relevant time which initiated the appointment process and has rejected the submission of the education institute and the management on this count.

10. Today, learned counsel for the education institute cannot contend that the petitioner does not possess the requisite qualification since that issue has become final. The education institute has filed a review petition for reviewing the order in Writ Petition No. 1675 of 2014, which we have dismissed today on the ground of delay. In our view, any further submission on the validity of the appointment of the petitioner cannot be made in the second round of litigation since that amounts to sitting in appeal over the order passed by this Court in Writ Petition No. 1675 of 2014. However, if the management is of the opinion that the petitioner has become ineligible then management is at liberty to take appropriate steps in accordance with law.

11. Insofar as the submission made that the earlier management is responsible since it was not a competent authority to appoint the petitioner has also been adjudicated by this Court while disposing Writ Petition No. 1675 of 2014 in paragraph no. 14. In any case, because of change in the management, the petitioner teacher cannot be made to suffer for the fight between two groups of management for seeking prayer for the salary. Therefore, this contention of the respondent – education institute is also rejected.

12. The alternative submission made by the education institute that the petitioner should be treated as 'untrained teacher', also cannot be accepted since this Court in Writ Petition no. 1675 of 2014 has observed that there is no dispute that the respondents therein (petitioner herein) possess the requisite qualification for his appointment on the respective post. Therefore, the education institute today is precluded from making this submission. The pay scale of the petitioner has been approved by the Education Officer and the Institute and this further is fortified by letter dated 22.04.2015 addressed by the Headmaster to the chairman of the Institute. Therefore, in our view, the submission made on this count is also required to be rejected.

13. Merely because the education institute does not have the financial capacity, cannot be a ground to deny the petitioner of his legitimate dues of salary as an Assistant Teacher. However, learned

counsel for the education institute is justified in submitting that the petitioner is not entitled to the salary beyond the period of 3 years from the date of filing the petition. The Petition is filed in June, 2020. Therefore, in our view, the petitioner would be entitled to the salary only from 01.07.2017 and not prior thereto.

14. It is not clear whether the petitioner's name appears in the TET scam. If his name appears, then the management is at liberty to take appropriate action in accordance with law based on the order passed by the Maharashtra State Council of Examination and if the said order is challenged by the petitioner, then, based on the order passed in such challenge.

15. In view of above, we pass the following order :-

ORDER

- I] Respondents no. 3 to 5 are liable to pay salary of the petitioner as per the pay scale approved from 01.07.2017 till the date the petitioner is in employment.
- II] Respondents no. 3 to 5 are at liberty to take appropriate proceedings against the erstwhile management for recovery of the salary which is to be paid under this order and are also at liberty to take appropriate steps against petitioner if found ineligible subsequently.

- III] Respondents no. 3 to 5 to pay the salary of the petitioner within eight (8) weeks from today and the delay in making the payment beyond eight weeks would carry interest @ 6% p.a.
- IV] Pending Civil Applications, if any, do not survive and are disposed of.
- V] Rule is made absolute in terms of the above order.

[JITENDRA JAIN]
JUDGE

[KISHORE C. SANT]
JUDGE

arp/

AFTER PRONOUNCEMENT OF JUDGMENT :

16. At the request of learned Advocate Mr. Dixit for respondents no. 3 to 5, operation of the order is stayed for a period of six (6) weeks from today.

[JITENDRA JAIN]
JUDGE

[KISHORE C. SANT]
JUDGE

arp/