

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4215 OF 2002
WITH
CIVIL APPLICATION NO. 6373 OF 2013

BABANRAO RAGHOJI SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for petitioner : Mr. S. S. Pawar
A.G.P. for respondent No. 1 : Mr. U. S. Mote
.....

**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 13th JANUARY, 2015

PER COURT :-

1. The facts leading to this litigation, in short, can be stated as under :

2. The petitioner started serving as Assistant Teacher in respondent no. 2's School at village Kavada, Tq. Kalamnuri, District Hingoli. At that time, he had not cleared B.Ed. Degree. He was thus an untrained teacher. In 1993-94, the Government granted approval to his post and paid him salary as untrained teacher. In 1994-95 also, approval to his post was given and he was paid salary of untrained teacher. After 1996, approval was denied to the petitioner's post. According to the petitioner, such approval was

denied to him because he was not trained teacher. The management however, continued his service as Assistant Teacher. They even allowed him to undertake B.Ed. Course. He completed B.Ed. Course in May, 2000. At that time, another proposal was sent to the Education Officer for approval to the petitioner's post. This time, the management demanded that the petitioner should be paid salary of trained teacher. The Education Officer, however, placing reliance on the Government Resolution dated 13.10.2000, given approval to the appointment of the petitioner as 'Shikshan Sevak' and thereby gave him fixed honorarium. He was denied pay scale of trained teacher. The petitioner therefore, came to this Court with a grievance that he ought to have been given pay scale of trained teacher.

3. We find no illegality in the Government's action. The petitioner was not an approved teacher after 1996. So, when in 2000, his proposal came for approval, the provisions of the Government Resolution could have been made applicable. The Government had ample discretion not to give approval for the post of petitioner as trained teacher but to give him fixed salary as Shikshan Sevak. The Government, later on, after completing three years of service as Shikshan Sevak by the petitioner awarded pay scale of trained teacher to the petitioner. In view of this, we do not find any illegality

in the action of the Government. No injustice is meted out to the petitioner.

4. The petitioner placed reliance on the judgment of Division Bench of this Court in the case of Bharti Manu Mandhora and another vs. State of Maharashtra and others, delivered on 15.2.2006 in writ petition No. 3594 of 2003. The basic difference in the facts of these two cases is that petitioner was not an approved teacher prior to 2000. The law laid down in this judgment is thus not applicable to the facts of this case.

5. Writ Petition is dismissed. Rule discharged.

6. Civil application No. 6373 of 2013 is also disposed of.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)

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