

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2774 OF 2005

Abdul Jahir Abdul Hamid .. **Petitioner**
Age-44 years, Occu-Nil,
R/o.Ekbal Nagar, Near Madina
Mazid, Parbhani.

Versus

1. The State of Maharashtra. .. **Respondents**
2. The Zilla Parishad
Through its Chief Executive Officer
Parbhani.
3. The Commissioner and
Competent Authority Under the
Persons with Disabilities
[Equal Opportunities, Protection
Of Rights and Full Participation]
Act, 1995.
Maharashtra State, Pune.
4. The District Social Welfare Officer
[Group-A]
Zilla Parishad, Parbhani.
5. Azad Education Society and
Welfare Society,
Through its Secretary Alisha Khan
Naseem Manzil, Iqbal Nagar,
Parbhani.

6. The Head Master,
Rashtriya Residential Orthopaedically
Handicapped Vidyalaya.
Iqbal Nagar, Parbhani.

Mr.K.M. Nagarkar, Advocate for the petitioner.
Mr.S.S.Tope, AGP for the respondent/State.

**CORAM : A.V. NIRGUDE &
A.M. BADAR,JJ.
DATED : 23.06.2015**

ORAL JUDGMENT [PER: A.V. NIRGUDE, J.]

1. Facts leading to this petition are as under:-
2. The petitioner was stated that he was appointed as a 'Peon' in respondent No.5 and 6 School in 1992. However the members of the Managing Committee were harassing the employees of the school. In 1999 the Secretary of the society called the staff members to his residence and informed them that the society has received salary grants but when they would get salary they would pay part of such amount to him. The petitioner gave certain cheques duly signed to the Secretary. The Secretary continued his illegal demands. On the other hand the petitioner started getting salary but he was forced to give part of his salary to the Secretary. The petitioner got fed up and stopped paying any amount to

the Secretary. Due to petitioner's refusal to give illegal bribe to the Secretary, he was prevented from coming to school and working as a 'Peon'. The Petitioner thus practically lost his job and he made several representations to several authorities but all in-vain.

3. In 2003 the petitioner filed a writ petition in this Court with the above grievances. This Court directed the Collector and Superintendent of Police, Parbhani, etc. to make an enquiry into the complaints of the petitioner and his colleagues who were staff members of the school.

4. On 6th October, 2004 the Collector submitted a report. In this report as far as the petitioner is concerned the Collector mentioned that the employer purposely prevented the petitioner from coming to work and the Education Department, Zilla Parishad would do needful to help the petitioner. Despite this report and assurance of help nothing was done. The petitioner was not allowed to go back to his work and therefore on 17th March, 2005 this petition was filed for following reliefs.

“(A) To direct the respondent Nos. 1 to 4 to forthwith take over the Management of the National Orthopaedically Handicapped school at

Parbhani run by respondent Nos. 5 & 6 and appoint an administrator, by issuing a writ of Mandamus or any other appropriate writ, order or direction.

(B) To direct the respondents to forthwith pay salary of the petitioner as payable to the post of Peon for the period from August, 1992 till the date of joining the post by the petitioner, after deducting the salary actually received by the petitioner with interest at the rate of 12% per annum from due date(s) till realization."

5. After filing of this petition the petitioner even secured ad-interim order by which the school Management was directed to allow the petitioner to join duty. However this order was withdrawn by speaking order dated 18th January, 2006. This Court at interim stage perused affidavit-in-reply filed on record by the respondents and came to a conclusion that the disputed questions of fact were raised in this petition. Fortunately, the Court did not say at that time that the petition was not maintainable. The questions that arises in this petition are as under.

i) Whether the Court should direct taking over Management of the school run by respondent Nos.5 & 6 and to appoint an Administrator.

ii) Whether the respondents should be directed to pay salary to the petitioner payable from August, 1992.

Having regard to facts and the reply filed on record in respect of the first question:-

Perused affidavit in reply and found that the authorities did take action against respondent Nos. 5 & 6 and recognition of the school was withdrawn for a period between 2000-2001. But thereafter recognition was again given to the school. The respondents apparently did not find any mis-management in the school. We also found that the petitioner has grievance against Management and such grievance should be taken to appropriate authority instead of getting recognition of the school canceled and getting an appointment of Administrator etc. These remedies would not make much difference to the petitioner's case. Therefore we are not inclined to grant him prayer clause-(A) of this petition.

6. Question No.2:- The petitioner's entitlement to salary is apparently a question of fact.

We are, therefore, not inclined to go into such question. From narration of the fact, it appears to us that the petitioner lost his job and he ought to have approached appropriate Forum challenging his removal from service. Instead of that he could have been mis-directed to come to this Court. This petition cannot succeed. The petition stands dismissed.

6. In view of disposal of the writ petition, civil application No.14298/2013 does not survive and stands disposed of.

[A.M. BADAR, J.]

[A.V. NIRGUDE, J.]