

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3873 OF 2014

IN WP/2569/2008 WITH CA/1023/2009 IN WP/2569/2008

DR BABASAHEB AMBEDKAR FOUNDATION SHRI SANT LAXMAN
MAHARAJ VIDYA MANDIR AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicants : Mr. Hon Vinayak D.

AGP for Respondents: Mr. G. K. Thigale

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**CORAM : S. V. GANGAPURWALA &
V. L. ACHLIYA , JJ.****DATE : 30th January, 2015****PER COURT :**

1. This application is seeking approval to the appointments made by the applicant and to release entire salary of the non teaching staff members from the date of their respective appointments.

2. Mr. Hon, the learned senior counsel submits that advertisement was issued on 6th July, 2013 and on or about 23rd July, 2013, the appointments were made. However, the approval is not being granted to the appointments made by the applicant on altogether unsustainable grounds. According to the learned senior counsel, the Government Resolution dated 25.11.2005 was never implemented. Even the Government Resolution dated 28.10.2014 would not have been applied as the appointments were made prior to the said date.

3. Mr. Thigale, the learned AGP submits that the appointments will have to satisfy all the necessary requirements as per various Government

resolutions. The Government Resolution dated 28.10.2014 specifically lays down that the post of Naik is promotional post and direct recruitment could not have been made. Even as per Government Resolution dated 25.11.2005, initial appointment of non teaching staff is to be made on honourarium and not on pay scale. Now, as per the Government Resolution dated 23.10.2013, the post of Naik, Lab Technician, Peon are Class IV posts and the sanctioned posts have become less.

4. We have considered the submissions canvased by the learned counsel for the respective parties.

5. The position on the date of issuance of appointment orders will have to be considered while considering the proposal seeking approval. In case subsequently some changes took place regarding post becoming less or so, till the said date proposal for approval has to be considered. The decision has to be given. Naturally the Government Resolution dated 28.10.2014 would not apply as the appointments are made much prior to the said date. Even in the Government Resolution dated 23.10.2013, it has been specifically stated that the Government Resolution dated 25.11.2005 was not implemented.

6. No doubt it is for the Education Officer to satisfy himself about the procedure being followed, the sanctioned posts being available and also the roster to be followed. However, the Education officer would not reject the said proposal only on the ground of Government resolution dated 28.10.2014 and 25.11.2005.

7. In the light of above, we pass the following order.
8. The respondent No. 3 shall consider the proposal seeking approval to the appointment made by the applicant, expeditiously considering the aforesaid observation, preferably within three months from the date of this order. In case the proposals are approved by the Education Officer, then the Education officer shall take further steps with regard to salary.
9. Civil application disposed of.

(V. L. ACHLIYA, J.)

(S. V. GANGAPURWALA, J.)

JPC