

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

**WRIT PETITION NO. 4969 OF 2006
WITH
CA/4675/2008 IN WP/4969/2006**

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1. Gangadhar s/o Janu Shelar,
age 42 yrs, Occ. Service,
Assistant Teacher, Dhanukar
Vidyalaya, Tilaknagar, Taluka
Rahata District Ahmednagar.
2. Deelip s/o Rangnath Mahamuni,
age 48 years, Occ. Service,
Assistant Teacher, Dahanukar,
Vidyalaya, Tilaknagar, Taluka
Rahata, District Ahmednagar. Petitioners.

VERSUS

1. Hind Seva Mandal, Ahmednagar,
Borkar Nagar, Shewdi-Nagar Road,
Ahmednagar, through its General
Secretary.
2. The State of Maharashtra through
its Secretary, School Education
Department, Mantralaya, Mumbai.
3. The Director of Education,
Maharashtra State, Pune.
4. The Deputy Director of Education,
Pune Region, Pune.
5. The Education Officer (Secondary)
Zilla Parishad, Ahmednagar.
6. Dahanukar Education Society,
through its Secretary,
(Copy to be served on the

address of Dahanukar Vidyalaya
Tilaknagar, Taluka Rahata
District Ahmednagar.

Respondents

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Advocate for Petitioner : Mr. S R Barlinge
AGP for Respondents: Mr. S.D.Kaldate
Advocate for Respondent 7 : Mr. A B Kale

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CORAM : A.V. NIRGUDE & V.K. JADHAV, JJ.

Dated: October 08, 2015

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ORAL JUDGMENT :- (Per A.V.Nirgude, J.)

1. The petitioners were the permanent employees of a private school. On 27.4.2006 the Education Officer, Secondary, Zilla Parishad, Ahmednagar declared them as surplus teachers and directed them to leave the school where they were worked earlier and take charge in different school. This direction was challenged by filing of this petition.

2. At interim stage, the Court passed an order of temporary injunction in terms of prayer clause 'E' vide order dated 3.8.2007 and also directed the respondents to absorb the petitioners in any school/Management run by respondent No.1. Accordingly, in November, 2007 petitioners were absorbed in another school and they started getting salary from December 2007. With

this development, cause of action for this petition would completely mitigated, however, learned counsel for the petitioners pointed out that, for 19 months prior to December, 2007, the petitioners were not paid any salary. When the petitioners pointed out this fact to the Education Officer vide his letter dated 14.12.2007, he suggested to the Head Master of the School that decision in respect of arrears of salary for 19 months, increments, etc., would be taken only after courts order in this petition. We have no hesitation to allow this petition in terms of following order mainly because the petitioners were the permanent employees and for no fault on their part, they were rendered surplus. There shall be rule in terms of following order.

ORDER

I. Respondent No.5 Education Officer (Secondary), Zilla Parishad, Ahmednagar is directed to release the salary grants payable to the petitioners for a period of 19 months and shall also decide the issue in respect of payment of annual increments.

II. The petitioner No.2 is now dead. The arrears should be handed over to his next of kin.

III. Writ Petition is disposed of. Rule is made absolute in above terms. No costs.

IV. In view of disposal of writ petition, civil application also stands disposed of.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)

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aaa/-