

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

**WRIT PETITION NO. 2665 OF 2002
WITH
CIVIL APPLICATION NO. 11120 OF 2014**

Abhaykumar s/o. Madhavrao Nilangekar .. Petitioner
Age-45 years, Occu-Nil,
R/s. House of Shri Bhosrekar
Near Ram Mandir, Samarthnagar,
Osmanabad.

Versus

1. The State of Maharashtra .. Respondents
2. The Deputy Director of Education
Aurangabad Region,
Aurangabad.
3. The Education Officer (Secondary)
Zilla Parishad,
Osmanabad.
4. The Head Master,
Dr. Babasaheb Ambedkar Vidyalaya,
Osmanabad.
5. Bharat Nagnath Tate,
Dr. Babasaheb Ambedkar Vidyalaya,
Osmanabad.

Smt. Vaishali R. Deshpande h/f Mr. Anandsingh S. Bayas,
Advocate for the petitioner.
Mr. S.B.Pulkundwar, A.G.P. for respondent-State.
Mr. K.G.Ghute Patil, Advocate for respondent No.5.

**CORAM : A.V. NIRGUDE &
V.K. JADHAV, JJ.
DATED : 08.01.2015**

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

1. The facts leading to this litigation are as under :-

2. The petitioner has qualification of B.Sc. B.Ed. He applied for the post of Assistant Teacher in the Secondary School of respondent No.4. On 25th May, 1993, he was selected and was appointed as Assistant Teacher in the pay-scale of Rs.1400-2600/- vide order dated 30.05.1993 for a period of two years. Respondent No.3- Education Officer sanctioned approval for such appointment but in 1996 respondent No.3 refused to grant approval to the appointment of the petitioner in the pay scale of Rs.1400-2600. He suggested that the petitioner can continue in the pay scale of Rs.1200-2040. The petitioner being a teacher of Secondary School could not have accepted this but for his need he continued on lower pay scale. During this time a senior teacher than the petitioner was terminated by the Management but such teacher had approached the School Tribunal. Pending disposal of his appeal respondent No.3 kept telling the petitioner that he would not get pay scale of Rs.1400-2600 till the fate of other teacher is decided. The

appeal filed by the other teacher was allowed on 19.08.2000. Thus, the other teacher came back and could claim pay scale of Rs. 1400-2600. The sanctioned post of teachers of Secondary School earlier was 10, but due to reduction in a strength of students it was reduced to 9. This happened in 1996. This was probably the first reason why the petitioner's pay scale was reduced. At that time since the petitioner was admittedly a junior-most teacher he could have lost his job.

3. Fortunately for the petitioner one more senior teacher one Shri Sayyad was terminated in 2001. This fact is stated by respondent No.3 in his affidavit. He even suggested that the post is now vacant. The petitioner can be accommodated in place of Shri Sayyad from the date of his termination. So, we suggested to the petitioner's advocate that her client should accept this via-media and should not insist for deciding the petition on merit. The petitioner's Advocate accepted this via-media.

4. The petition should, therefore, partly succeed. The petitioner's appointment should be approved from the date of termination of Shri Sayyad in the pay scale of Rs.1400-2600. The arrears if any shall be paid immediately.

5. In view of disposal of the writ petition connected civil application for fixing early date of hearing does not survive and stands disposed of.

[V.K. JADHAV,J.]

[A.V. NIRGUDE,J.]