

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7642 OF 2014

KAILASH BHOLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for petitioners : Mr. B. V. Wagh
A.G.P. for respondent Nos. 1 and 2 : Mr. G. K. Naik Thigale
Advocate for respondent Nos. 4 and 5 : Mr. A. A. Mukhedkar

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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 14th JULY, 2015

P.C. :-

1. Heard Mr. Wagh, the learned counsel for petitioners and Mr. Mukhedkar, the learned counsel for respondents.

2. According to the petitioners, the respondents are not paying salary to the petitioners as admissible as per the 6th Pay Commission. The learned counsel submits that even the service books of the petitioners were not completed. The same are completed after filing of the present writ petition. According to the learned counsel, even recovery is being made which is not permissible. The learned counsel submits that against the order passed by this Court in earlier writ petition, the petitioners had filed Special Leave Petition. The same is withdrawn with liberty to file better petition before the High Court, pursuant to which the present petition is filed. The learned counsel for

the petitioners also submits that in fact, even the Principal of the School has issued letters to the parents stating that the salary to the staff is paid as per the 6th pay commission, and on that ground, claimed for enhancement in fees. However, still the petitioners are not getting salary as per the 6th pay Commission. The said fact is refuted by the learned counsel for the respondents.

3. Mr. Mukhedkar, the learned counsel submits that, in fact, the earlier petition was filed for the same reliefs as claimed in the present writ petition. The Court negatived the relief with regard to recovery and all other reliefs and given liberty to the petitioners to take up such appropriate proceedings. The Apex Court, in Special Leave Petition filed by the present petitioners, granted liberty to file better petition only with regard to the benefit of 6th Pay Commission and no other liberty was given to the petitioners. The learned counsel submits that as per the judgment of the Division Bench of this Court at Nagpur Bench, in a case of ***Mahadeo s/o Pandurang More and others vs. State of Maharashtra and others, reported in 2014(5) Mh.L.J. 877***, the petitioners may not claim salary more than what is laid down in the Schedule of the Maharashtra Employees of Private Schools (Conditions of Service), Rules, 1981.

4. We have considered the submissions canvassed by the learned counsel for the respective parties. The relief as far as completion of

service books is concerned, the same stands redressed as, after filing of this petition, the same has been completed. As far as refund of the amount is concerned, this Court has already asked the petitioners to take appropriate proceedings. The Apex Court has granted liberty to the petitioners to file a better petition with regard to benefits under the 6th Pay Commission.

5. Even as per Rule 8 of the MEPS Rules, the Deputy Director of Education can determine the pay scale admissible.

6. In the light of that, we relegate the parties before the Deputy Director of Education under Rule 8 of the MEPS Rules.

7. In case such claim is made by the petitioners, the Deputy Director of Education shall, after hearing respondent management and the petitioners, take decision upon the same expeditiously. Needless to state that as per the liberty given by this Court in the earlier writ petition, the petitioners are entitled to take up appropriate proceedings challenging the recovery claimed.

8. Writ Petition is accordingly disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)