

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9393 OF 2014

1. Randhir Raosaheb Aher
Age : 41 years, Occu. Service
R/o. Ghod Nadi, Shirur,
Tal. Shirur, Dist. Pune.
 2. Subhash Sukhdeo Khalate
Age : 35 years, Occu. Service
R/o. Ghod Nadi, Shirur,
Tal. Shirur, Dist. Pune.
 3. Raju Pandurang Bhand
Age : 35 years, Occu. Service
R/o. At Post Kurund,
Tal. Parner, Dist. Ahmednagar.
 4. Sandip Bansi Jadhav
Age : 30 years, Occu. Service
R/o. At Post Kurund,
Tal. Parner, Dist. Ahmednagar.
 5. Yogita Hiraji Bhapkar
Age : 28 years, Occu. Service
R/o. At Post Kurund,
Tal. Parner, Dist. Ahmednagar.
 6. Manda Ganesh Gaikwad
Age : 40 years, Occu. Service
R/o. At Post Kurund,
Tal. Parner, Dist. Ahmednagar.
- ... Petitioners

VERSUS

1. The State of Maharashtra
Through Secretary,
Social Welfare Department,
Mantralaya, Mumbai -32.
2. The Assistant Commissioner,
Social Welfare, Ahmednagar.
3. The District Social Welfare Officer,
Ahmednagar.

(Copy to be served on Government
Pleader, High Court of Judicature of
Bombay, Bench at Aurangabad.)

4. Madhyamik Ashram School,
Kurund, Tal. Parner,
Dist. Ahmednagar.
Through its Principal
 5. Phule-Ambedkar Vichar Sanwardhan Samiti
590, Kaivalyasindhu, Vitthalnagar,
Shirur, Taluka Shirur,
Dist. Pune.
Through its Chairman
- ... Respondents

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Mr. Amol K. Gawali, Advocate for petitioners
Mrs. S. A. Dhumal, AGP for respondent Nos. 1 to 3
Mr. M. E. Bhosale, Advocate h/f Mr. P. V. Barde,
Advocate for respondent No. 4
Mr. N. D. Sonawane, Advocate for respondent No. 5
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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 22nd JUNE, 2015

ORAL JUDGMENT (PER S. V. GANGAPURWALA, J.) :

1. Rule. Rule made returnable forthwith. With consent of the parties, petition is taken up for final hearing at admission stage.

2. Mr. Gawali, the learned counsel for petitioners states that the petitioner Nos. 1 and 3 were appointed on 14.6.2004, petitioner Nos. 2 and 4 were appointed on 1.9.2004, petitioner No.5 was appointed on 1.10.2005 and petitioner No.6 was appointed on 10.6.2005. The

learned counsel submits that the petitioners were appointed after following due selection process i.e. after the advertisement and selection through the Selection Committee. Even the proposal was forwarded to the respondent authority for approval. No decision was taken. The salaries were not paid and as such, again in the year 2007, the petitioners were issued appointed orders and the proposal was sent for approval. Approval has been granted to the appointments of the petitioners showing the date of their appointment as 15.06.2007. However, the petitioners were appointed in the year 2004-2005 as referred to above. The petitioners' approval orders were required to be issued from the date of their initial appointment alongwith all monetary benefits. The learned counsel submits that the Government Resolution of the year 2006 would not be relevant as the appointments in the year 2004 were prior to the said Government Resolution.

3. The learned counsel for the management submits that the petitioners were appointed in the year 2004-2005 after following due selection process. In the year 2005-2006, the Ashram School started receiving grants. Even the proposal for approval of all the petitioners was submitted in 2004-2005. No decision was taken. The salaries were not being released. As such, it was shown that fresh advertisement is issued and again selection has been made.

4. The learned AGP submits that the posts have not been properly filled in as per the Government Resolution dated 16.10.2003. The learned AGP submits that the Selection Committee, in the year 2004, was not properly constituted. As such, the selection of the petitioners was improper. The letter of approval has been rightly issued from the year 2007.

5. We have considered the submissions canvassed by the learned counsel for respective parties. There does not appear to be any dispute with the factual matrix that the petitioner Nos. 1 and 3 were appointed on 14.6.2004, petitioner Nos. 2 and 4 were appointed on 1.9.2004, petitioner No.5 was appointed on 1.10.2005 and petitioner No.6 was appointed on 10.6.2005. The bone of contention of respondent is that when the petitioners were appointed in the year 2004, proper Selection Committee, as is required by the Government Resolution dated 14.02.2006, was not constituted. The appointments were made in the year 2004 and 2005. The Government Resolution dated 14.02.2006, certainly, was not in existence on the date when the petitioners were appointed. The Government Resolution dated 16.10.2003, on which reliance is placed by the Assistant Commissioner, Social Welfare, is absolutely misplaced. The said Government Resolution deals with the

requisites for grant of permission for starting Ashram School and not for filling in the posts.

6. When the petitioners are working since the year 2004 and 2005, there would not have been any impediment for the authority to grant approval since the date of their initial appointment.

7. Considering the above, we pass the following order;

ORDER

- I. The approval order dated 31.3.2008 (Page 101) to the extent of granting approval from 15.06.2007 is set aside. Instead, the respondent authority is directed to grant approval to the appointment of the petitioner Nos. 1 and 3 from 14.6.2004, petitioner Nos. 2 and 4 from 1.9.2004, petitioner No.5 from 1.10.2005 and petitioner No.6 from 10.6.2005. The period of service of the petitioners shall be considered for all future increments, monetary benefits etc. from the respective dates of their appointments as mentioned above. However, the petitioners, in case, are not paid salary up to 15.06.2007, shall not be entitled for the same.
- II. The writ petition is partly allowed. Rule is made absolute in the above terms. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)