

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

WRIT PETITION NO. 11466 OF 2014

- 1] Smt. Rukhminidevi Mandalik
Prathamik Vidya Mandir, Fagne,
Tq. and Dist. Dhule,
Through its Headmaster,
Rajesh s/o. Jeevan Mahajan,
Age 39 Years, Occu: Service,
R/o. At Post Warkhede,
Tq. and Dist. Dhule
- 2] Dinesh s/o. Dangal Wagh,
Age 39 Years, Occu. Service,
R/o. At Balapur, Post: Fagne,
Tq. and Dist. Dhule.
- 3] Vinod s/o. Govindrao Wagh,
Age 38 Years, Occu: Service,
R/o. At Balapur, Post: Fagne,
Tq. and Dist. Dhule.
- 4] Shashikant s/o. Khushal Mohite,
Age 39 Years, Occu: Service,
R/o. Vivekanand Nagar,
Gondur Road, Plot No.50,
Wadibhokar, Tq. and Dist. Dhule

PETITIONERS

VERSUS

- 1] The State of Maharashtra,
Through Secretary,
Education and Employment
Department, Mantralaya,
Mumbai – 32.

[Copy to be served on G.P.
High Court of Bombay Bench
at Aurangabad]

- 2] The Deputy Director of Education,
Nashik Division, Nashik
- 3] The Education Officer [Primary],
Zilla Parishad, Dhule
- 4] The Superintendent [Primary],
Pay and P.F.Unit,
Zilla Parishad, Dhule

RESPONDENTS

...
Mr. Ajay D. Pawar, Advocate for Petitioners
Mr. Rahul S.Pawar, Advocate for Respondent No.3
Mr. V.H.Dighe, AGP for Respondent Nos.1 & 2 – State
...

**CORAM: S.S.SHINDE &
P.R.BORA, JJ.**

Reserved on : 19.03.2015

Pronounced on: 30.03.2015

JUDGMENT: [Per S.S.Shinde, J.]:

- 1] Heard.
- 2] Rule. Rule made returnable heard forthwith
with the consent of the parties.
- 3] The petitioners by way of filing this Writ Petition
under Article 226 of the Constitution of India, seek direction
to the Respondent No.3 – Education Officer [Primary], Zilla
Parishad, Dhule to release the unpaid salary of petitioners
with effect from 01.09.2014 till today, and issue further
directions to continue payment of monthly salary in future.

4] It is the case of the petitioners that, they came to be appointed as Assistant Teachers in Smt. Rukhminidevi Mandalik Prathamik Vidyalaya, Fagne, Taluka and District Dhule in the Year 2000-2001. Their services are also approved by the Respondent No.3 – Education Officer, Zilla Parishad, Dhule. It is the further case of the petitioners that, from the Year 1984 to 1998 the School had run without there being any grant from the Government. In the Year 1998, the Respondent No.2 wrote a letter to the Management of petitioners that, Government has taken a decision to bring Schools like petitioners on grant in aid, and accordingly, from the Year 1999-2000 petitioner No.1 started receiving grant in aid.

5] It is the further case of the petitioners that, after receipt of grants, every year the petitioner No.1 School was inspected by the respondent Authorities and from the year 2013-14, the on-line data of teaching and non-teaching staff has already been supplied to the Government. Surprisingly, by letter dated 22.07.2014, the respondent No.3 – Education Officer issued a letter to Headmaster that, from the available documents, it seems that, the petitioner No.1 School is a permanent no-grant

basis School, and grants cannot be granted to such School. It is the further case of the petitioners that, the petitioner No.1 School received grants from the Government for the Year 1999-2000, after due verification by the respondent Nos. 2 and 3. By that letter, the documents such as permission of the School from the Government and the Deputy Director of Education was directed to be submitted, accordingly said documents are supplied by the Secretary of the Management of petitioner No.1 School to respondent No.3. The said documents show that, from the Year 1999-2000, the School started receiving grants till August, 2014. However, without notice or opportunity of hearing, by order dated 22.07.2014, the respondent No.3 stopped the salary grants of petitioners with effect from 01.09.2014.

6] It is the further case of the petitioners that, on 31.08.1998, the Respondent No.3 sought documents from the management of petitioner No.1 School, such as first permission of the School received from the Government and other documents, which are supplied by the Secretary of petitioner No.1 School immediately on 20.09.1998 to respondent No.3.

7] It is the further case of the petitioners that, since the petitioners are appointed in the Year 2000-2001 and approval is also granted by the Respondent No.3 Education Officer, they cannot be deprived from receiving their salaries.

8] The learned counsel appearing for the petitioners submits that, the petitioners are working from last 14-15 years and without adhering to the principles of natural justice, the Education Officer [Primary], Zilla Parishad, Dhule has withheld the salary of the petitioners with effect from 1st September, 2014. Therefore, the learned counsel appearing for the petitioners submits that, Petition deserves to be allowed.

9] The learned counsel appearing for the respondent Nos. 2 to 4 submitted that, since the permission to run the School was granted in favour of institution in which petitioners are working as Assistant Teachers on permanent non-grant basis, and therefore, institution in which petitioners are serving is not entitled to receive grant in aid.

10] We have considered the submissions of the learned counsel appearing for the petitioners, learned AGP for the Respondent – State and the learned counsel appearing for the respondent Nos.2 to 4, with their able assistance, perused the pleadings and grounds taken in the Petition, annexures thereto, the impugned communication by the Education Officer, Zilla Parishad, Dhule, on 22nd July, 2014, addressed to the Headmaster of Smt. Rukhminidevi Mandalik Prathamik Vidyalaya, Fagne, Taluka and District Dhule. Upon perusal of the documents placed on record, it appears that, the State Government started disbursement of grant-in-aid to the Smt. Rukhminidevi Mandalik Prathamik Vidyalaya, Fagne, Taluka and District Dhule from the Year 2000. Upon perusal of the letter dated 24th March, 2000 addressed by the Deputy Director of Education, Nashik Region, Nashik to the Education Officer [Primary], Zilla Parishad, Dhule, Taluka and District Dhule, in the light of the Government Resolution dated 28th April, 1989 referred in the said letter, Government sanctioned 100% grant in aid from the Year 1999-2000 to the Rural Education Society's Smt. Rukhminidevi Mandalik Prathamik Vidyalaya, Fagne, Taluka and District Dhule. It further appears from the perusal of the chart in the said letter that, the said

School received approval – recognition from the Year 1983-1984 and 100% grant from the Year 1999-2000 for four posts. The petitioners have also placed on record copies of the documents in which strength of the students in the said School is indicated. The documents placed on record also show that, time to time the Education Officer [Primary], Zilla Parishad, Dhule, has sanctioned divisions and also granted approval to the services of the teachers and other staff members. If the copies of the documents placed on record are read carefully, it appears that, Schools started receiving grant in aid from the year 1999-2000, and therefore, the action taken by the Education Officer [Primary], Zilla Parishad, Dhule to stop salary of the petitioners without giving notice and hearing, cannot be countenanced. Before taking such a drastic action of withholding salary of the petitioners with effect from September, 2014, the Education Officer [Primary], Zilla Parishad, Dhule, ought to have adhered to the principles of natural justice.

11] In that view of the matter, the impugned communication dated 22nd July, 2014 issued by the Education Officer, Zilla Parishad, Dhule to the Headmaster

of Smt. Rukhminidevi Mandalik Prathamik Vidyalaya, Fagne, Taluka and District Dhule, is quashed and set aside. In case the Education Officer [Primary], Zilla Parishad, Dhule wishes to take any further decision, he should give opportunity of hearing to the office bearers of the institution and also to the teachers. Since we have set aside the impugned communication – decision of the Education Officer [Primary], Zilla Parishad, Dhule, dated 22nd July, 2014, as a sequel the petitioners would be entitled for the arrears of salary, however, subject to fulfilling other conditions as prescribed under the Act and the Rules. The respondents are directed to pay arrears of salary as expeditiously as possible preferably within 8 weeks from today.

12] Writ Petition is partly allowed. Rule made absolute in above terms. Petition stands disposed of.

Sd/-

[P.R.BORA]
JUDGE

Sd/-

[S.S.SHINDE]
JUDGE

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DDC