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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.158 OF 2015

Sheela Nanarao Karnewar
Age-44 years, Occ - Service
as Shikshan Sevak with Zilla Parishad
Primary School, Kaudgaon,
CPS- Ambejawalga, Taluka-Osmanabad
District- Osmanabad
R/o Osmanabad, Taluka and District-Osmanabad

PETITIONER

VERSUS

1. The State of Maharashtra
Department of School Education,
Mantralaya, Mumbai-32
Through its Secretary
2. The Scheduled Tribe Certificate
Scrutiny Committee,
Amravati Division, Amravati,
Through its Member Secretary,
3. The Chief Executive Officer,
Zilla Parishad, Osmanabad

RESPONDENTS

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Mr. S. C. Yeramwar, Advocate for the petitioner
Mr. K. J. Ghute Patil, AGP for respondent State
Mr. A. B. Tele, Advocate for respondent No.2
Mr. P. P. Dama, Advocate for respondent No.3

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[CORAM : S. V. GANGAPURWALA AND
V. L. ACHLIYA, J.J.]

DATE : 8th JANUARY, 2015

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

1. Rule. Rule made returnable forthwith. With consent of parties, taken up for hearing.

2. Mr. Yeremwar, learned advocate submits that the petitioner is appointed as *Shikshan Sevak*, vide order dated 24th October, 2001 and the petitioner has joined on 27th October, 2001. A proposal in respect of tribe claim of the petitioner is forwarded to the committee for validation. The same is pending, however, the petitioner is not being paid pay scale of Assistant Teacher, which is admissible to her after lapse of three years from the date of appointment as *Shikshan Sevak*. Learned advocate submits that this issue has already been considered by this Court in number of matters, one such order is passed in Writ petition No.3651 of 2013 dated 1st July, 2013.

3. Mr. Tele, learned advocate for respondent committee submits that it is only on 17th September, 2013, proposal is forwarded to the committee and it would take some time to decide said proceedings.

4. Mr. Dama, learned advocate for Zilla Parishad submits that the petitioner is appointed as against a reserved post and as

validity is not produced, she is not being paid pay scale of assistant teacher.

5. The issue is no longer *res integra*. The petitioner is a deemed assistant teacher on successful completion of three years' period as *Shikshan Sevak*. There is no impediment for respondent No. 3 to give pay scale of assistant teacher to the petitioner, in case the petitioner satisfies all other legal requirements. Said pay scale cannot be stalled only on the ground that validation proceedings are pending. Of course, appointment of the petitioner either as *Shikshan Sevak* or Assistant Teacher would always be subject to the decision of the committee in validation proceedings.

6. In the light of above, we pass following order:

ORDER

i) Respondent No.2 committee shall decide tribe claim of the petitioner expeditiously and preferably within a period of nine months from today.

ii) Respondent No. 3 shall not withhold payment of salary to the petitioner in the pay scale of assistant teacher, along with arrears,

iv) Writ petition accordingly stands disposed of. Rule is made absolute with no order as to costs.

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