

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3825 OF 2014

Patil Anilkumar Revansiddha & Ors.	...	Petitioners
vs.		
State of Maharashtra, through Secretary, Education Dept. & Ors.	...	Respondents

Mr. Vishwasrao S. Deokar with Ms. Meenal S. Deshmukh, Advocate for the petitioners.

Smt. M.S. Bane, AGP for respondent nos. 1 to 3.

Ms. Ujawala V. Karpe, Advocate for respondent no. 5.

Mr. J.S. Shivsharan, Deputy Education officer present.

**CORAM : SMT. VASANTI A. NAIK &
C.V. BHADANG, JJ.**

DATE : 22nd January, 2015.

P.C.

Rule. Rule made returnable forthwith. The Petition is heard finally, as the notice for final disposal was issued on 13th October, 2014 and the respondents are duly served.

By this Petition, the petitioners challenge the order of the Superintendent, Salary & Provident Fund, Solapur dated 3rd September, 2013 refusing to release the salary of the petitioners on the ground that permanent approval has not been granted to their appointments.

The petitioners were appointed as Shikshan Sevak by the

respondent no. 5/Management in the months of March and June, 2010. The proposal for grant of approval to the appointment of the petitioners was sent to the Education Officer and the Education Officer granted approval to the appointment of the petitioners. The petitioners successfully completed the tenure of three years as Shikshan Sevak and hence, they were entitled to grant of approval as permanent teachers. The management sent the proposals of the petitioners for grant of permanent approval and the proposals are pending before the Education officer. Since the petitioners attained permanency in service after completing the tenure of three years as Shikshan Sevak satisfactorily, the management sent the salary bills of the petitioners to the respondent nos. 3 and 4 for payment of salary to the petitioners. The Superintendent of Pay Unit, however, refused to release the salary of the petitioners on the ground that permanent approval was not granted to their appointments. By this Petition, the petitioners have challenged the order of the Superintendent of Pay Unit.

Mr. Deokar, the learned counsel for the petitioners submitted that the Superintendent of Pay Unit was not justified in refusing to release the salary of the petitioners. It is stated by placing reliance on the Full Bench judgment of this Court, reported in **2007 (6) Bom. C.R. 23** (*Ram Avadh Mahel Pal vs. Shivdutta Educational Trust & Ors.*), that the petitioners

had attained permanency on successful completion of three years tenure as Shikshan Sevak. It is stated that the petitioners became confirmed permanent teachers after the completion of the tenure of three years as Shikshan Sevak. According to the petitioners, the respondents were liable to grant approval to the permanency of the petitioners, however, the Education authorities failed to grant approval to the appointment of the petitioners as permanent teachers. It is stated that the management had rightly submitted the salary bill of the petitioners to the respondent nos. 3 and 4 but the respondent no. 4 illegally refused to release the salary of the petitioners on the ground that permanent approval was not granted in their favour.

Ms. Bane, the learned Assistant Government Pleader appearing on behalf of the respondent nos. 1 to 4 states, on instructions from the Deputy Education Officer who is present in the Court today, that the approval to the appointment of the petitioners as permanent teachers was not granted because the management had not absorbed some surplus teachers in the school run by the respondent no. 5 despite the direction of the Education authorities to do so. It is, however, fairly admitted that the petitioners were entitled to permanency in view of the judgment of Full Bench, reported in **2007 (6) Bom. C.R. 23**.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioners needs to be granted. It would be necessary to quash and set aside the order of the Superintendent of Pay Unit. The petitioners have attained permanency on the completion of three years tenure as a Shikshan Sevak. It is not the case of the Education authorities that the petitioners had not successfully completed the tenure of three years as Shikshan Sevak. It is fairly admitted by the learned AGP that the case of the petitioners stands covered in view of the judgment reported in **2007 (6) Bom. C.R. 23**. We find that the action on the part of the Education authorities in not granting approval to the permanent appointment of the petitioners as Assistant Teachers on the ground that the management had failed to absorb some surplus teachers in their school, is extremely arbitrary and highhanded. The petitioners could not have been punished by the Education authorities for the inaction on the part of the management to absorb the surplus teachers. The Education authorities ought to have taken any other action against the management, that was permissible in law but the Education authorities could not have refused to grant approval to the petitioners and pay the regular salary to them.

Hence, for the reasons aforesaid, the Writ Petition is allowed. The

impugned order is quashed and set aside. The respondent nos. 1 to 4 are directed to pay the arrears of salary to the petitioners within a period of four weeks from the date of communication of the order.

Rule is made absolute in the aforesaid terms, with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)