

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 26566 OF 2014

Rajendra Tukaram Birajdar & Ors.

.. Petitioners

vs

The State of Maharashtra & Ors.

.. Respondents

Mr. R.V. Bansode for the petitioners.

Mr. Vishal Thadani, AGP for respondent nos.1 and 2.

Mr. S.J. Rairkar with Mr. N.R. Vidwans for respondent no.3.

Mr. B.R. Deshmukh for respondent no.5.

**CORAM: MOHIT S. SHAH, C.J. &
A.K MENON, J.**

DATE : 16 JUNE 2015

P.C.:

The grievance in this petition is that a proposal dated 22 August 2005 submitted by the School Management (Sahyadri Vidya Vikas Mandal, Ambegaon, District Pune) for permanent administrative approval to the appointment of five petitioners has not been decided by the Zilla Parishad. The learned counsel for the petitioners also makes a grievance that the respondent authorities are not releasing the salary grants and allowances of the petitioners from January 2013 onwards.

2. Affidavit in reply has been filed on behalf of respondent no. 5 – School Management and also on behalf of the Pune Zilla Parishad.

3. In the reply affidavit dated 19 April 2015 on behalf of the Pune Zilla Parishad, it is stated that the above pending proposal can be disposed of by respondent no.4 within a period of 4 weeks from the date of order of this Court and respondent no.4 will afford a reasonable opportunity of hearing to the concerned employees and the representative of the School Management and keeping in view the Roster Scrutiny Report dated 5 June 2014. It is also stated that other staff members are also required to be heard along with the petitioners and the School Management simultaneously.

4. There can be no objection to the authorities taking a decision on the proposal dated 22 August 2005 of the School Management after affording an opportunity of hearing to all affected persons, but we fail to appreciate how the respondents can be permitted to contend that the petitioners, who were appointed in respondent no.5 school as far back as in the year 2002 and in their favour salary grant was released by the Zilla Parishad since November 2002, can be deprived of their salaries and allowances for the last more than 2 years on the ground of any dispute about legality or otherwise of their appointment.

5. Our attention has been invited to the communication dated 14 November 2002 of the Pune Zilla Parishad wherein approval was granted to the appointment of all the five petitioners

with effect from the relevant date being 22 April 2002 in case of four petitioners and 1 June 2002 in case of the fifth petitioner (Shri D.S. Bidkar).

6. The learned counsel for the Zilla Parishad would contend that the approval was for the period upto 31 March 2013 and was subject to certain conditions. Even if that be so, the fact remains that the petitioners have admittedly been rendering their services in respondent no.5 school from the above respective dates and at present also the petitioners are rendering their services in respondent no.5 school.

7. Having regard to the fact that the petitioners have been continuing to render their services in respondent no.5 school for the last more than 13 years, it is highly arbitrary and unreasonable on the part of the respondent authorities not to release the salary grant for the petitioners without taking any final decision on the issue/s which, according to the Zilla Parishad, arise in the matter.

8. In the said affidavit on behalf of the Zilla Parishad, a statement is made that the decision will be taken by the Zilla Parishad keeping in view the roster position as categorized in the Roster Scrutiny Report dated 5 June 2014 of the Division Commissioner (Backward Class Cell), Pune, respondent no.7 herein.

9. The learned counsel for the petitioners submits that the petitioners have not been given a copy of the said Roster Scrutiny Report dated 5 June 2014 and that the petitioners will, therefore, take necessary steps for modification of the said Roster Scrutiny Report within 2 weeks from today.

10. Accordingly this petition is disposed of with the following directions:-

- (i) If the petitioners make an application for modification of the Roster Scrutiny Report dated 5 June 2014 within 2 weeks from today, respondent no.7 – Division Commissioner (Backward Class Cell), Pune, shall decide the same as expeditiously as possible and, in any case, within 4 weeks from the date of receipt of the application. After the decision of respondent no.7 on such application, the Zilla Parishad will give an opportunity of hearing to all such parties including the petitioners.
- (ii) Thereafter respondent nos.3 and 7 shall take final decision on the proposal dated 22 August 2005 submitted by the School Management – Sahyadri Vidya Vikas Mandal for taking administrative approval to the appointment of the petitioners and further

representation/s made by the School Management. The decision shall be taken after affording a reasonable opportunity of being heard to all the five petitioners, a representative of the School Management and any other person/s likely to be affected by the decision on the above proposal.

It goes without saying that the petitioners as well as the School Management shall extend cooperation for such hearing.

- (iii) Till the Zilla Parishad takes a final decision on the proposal, the Zilla Parishad shall release the salary grant and allowances as also release the grant for arrears of salary and allowances of the petitioners, which shall be done within 3 weeks from today.
- (iv) The Zilla parishad shall take the final decision within 3 months from today. In case the decision is adverse to the petitioners, the same shall not be implemented for a period of 3 weeks from the date of dispatch of the decision to the petitioners by RPAD.

11. It is clarified that we have not gone into the merits of controversies between the parties and all contentions of the parties are kept open.

CHIEF JUSTICE

(A.K. MENON, J.)