

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR
BENCH, NAGPUR.**

WRIT PETITION NO.5013 OF 2013
Dnyaneshwar S/o Ramdas Nimsarkar

..vs..

**Education Officer (Secondary), Zilla Parishad, Gadchiroli, District
Gadchiroli and ors**

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders
.....

Court's or Judge's order

Shri S.S. Dhengale, counsel for the Petitioner.
Shri Dhore, counsel for R-3 to 6.
Shri D.M. Kale, AGP for R-1 & 2.

**CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.**
DATE : FEBRUARY 9, 2015.

Heard learned counsel for the respective parties.

Shri Dhengale, learned counsel, submits that on 13.1.2015 as his name did not figure in cause list, he could not appear. The statement is accepted.

However, it is not in dispute that in obedience to our direction on 13.1.2015, the petitioner has reported at "Asarali School" in

.....2/-

Sironcha Tahsil and is working there. The petitioner does not make any grievance about the order of transfer. He submits that it was challenged because it was issued *mala fide* on account of complaint made by the petitioner against the Management. Shri Dhore, learned counsel, is disputing this.

Only grievance survives and presses into service by Shri Dhore, learned counsel, is about entitlement of the petitioner to salary from the date on which he was relieved i.e. from 24.6.2012 till his joining at "*Asarali School*".

According to Shri Dhengale, learned counsel, the petitioner reported at "*Asarali School*" and submitted his joining report but was prohibited from joining. Shri Dhore, learned counsel, is disputing this. Shri Dhore, learned counsel, is seeking time to file reply affidavit to place on record the correct position.

Shri D.M. Kale, learned Assistant Government

Pleader, submits that the transfer order has already been obeyed, hence, part of cause of action does not survive.

It is apparent that in-so-far as entitlement of the petitioner to salary after issuance of transfer order and till joining is concerned, some disputed questions of facts may arise. The petitioner has placed on record at least two representations in an attempt to demonstrate that he went to “*Asarali School*” for joining. However, in this situation, we direct the petitioner as also respondent Nos.2, 3, and 6 to appear before respondent No.1 – Education Officer (Secondary), Zilla Parishad, Gadchiroli on 6.4.2015. On that day, the said respondent shall, after considering the documents tendered by the parties, attempt to find out entitlement of the petitioner to salary for the period mentioned *supra*.

Leaving all rival contentions, in relation to said entitlement, open and with directions to respondent No.1 – Education Officer (Secondary),

Zilla Parishad, Gadchiroli to take suitable decision upon it within a period of eight weeks thereafter, we dispose of the writ petition. No costs.

JUDGE

JUDGE

!! BRW !!