

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD.****W.P. NO.1366/2015**

Kamaruddin Faruqui s/o Mohd.
Fasihuddin and another.

..PETITIONERS.**VS**

The State of Maharashtra
and others.

..RESPONDENTS.

...

Mr.V.R. Sonwalkar, Advocate for petitioners.
Mr.S.K. Tambe, A.G.P. For respondents/State.
Mr.P.P. Dama, Advocate for Respondent No.2.
Mr.Pradeep Deshmukh, Advocate for Respondents 3 & 4.

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CORAM : S.S. SHINDE & P.R. BORA, JJ.**Dated: 7th January, 2016.****PER COURT :-**

1. This petition has been filed with the following prayer:

“(B) By issuing writ of mandamus / certiorari and/or any orders or directions in the like nature the report dated Nil submitted by the Education Officer (Primary) Zilla Parishad Beed in view of order passed by the Hon'ble Division Bench of High Court in Writ Petition No.1443/2008 on 22.08.2013 may please be quashed and set-aside and it may be declared that,

the said report is not binding on petitioners.”

2. This petition was heard by this Court on 23rd November, 2015; when a detailed order was passed and the Education Officer (Primary), Zilla Parishad, Beed was directed to comply with the order dated 22nd August, 2013. Accordingly, the Education Officer (Primary), Zilla Parishad, Beed has filed an affidavit along with the report. The same is taken on record. It is not in dispute that, earlier also the Education Officer (Primary), Zilla Parishad, Beed has filed report and it is stated in the said report that, Smt. Ajmeri Begum Afzaloddin, Assistant Teacher and Smt. Shaikh Parween Begum Shaikh Hussain, Assistant Teacher were found rendering services during the period from 1st March, 2007 to 27th April, 2010. However, the said inquiry report has been challenged by filing the present writ petition. As already observed, the respondent No.2 has filed affidavit-in-reply with his inquiry report. It is also not in dispute that the petitioner and also all affected parties were heard by the Education Officer – respondent No.2 and thereafter inquiry report has been placed on record. According to the learned Counsel for the respondents No.3 and 4, even before filing

the inquiry report dated 22nd August, 2013 by respondent No.2, earlier there was report of the Deputy Education Officer stating therein that the respondents No.3 and 4 herein were found serving during the period from 1st March, 2007 to 27th April, 2010 in the petitioners' school namely, Dr.Mohd. Iqbal Primary School, Morewadi, Ambajogai, Dist. Beed. Therefore, the position that emerges as on today is that, so as to address the controversy whether the respondents No. 3 and 4 were rendering services during the aforesaid period in the aforementioned school or not, there are two reports which unequivocally mention that the respondents No.3 and 4 were found serving in the said school during the aforementioned period upon verification of the documents on record.

3. In that view of the matter, though the learned Counsel for the petitioners submits that the petitioners wish to challenge the report of the Education Officer on the ground that necessary evidence has not been considered by the respondent No.2, we reject the said prayer and accept the report submitted by the Education Officer (Primary), Zilla Parishad, Beed along with affidavit-in-reply, in the peculiar

facts of this case and direct the petitioners to submit the salary bills in respect of unpaid salary for the services rendered in past by respondents No.3 and 4, within four weeks from today.

In view of the fresh report dated 18th December, 2015 submitted by respondent No.2 after hearing all concerned and since the said report is accepted by this Court, this petition is rendered infructuous and the same is disposed of as infructuous.

(P.R. BORA, J.)

(S.S. SHINDE, J.)