

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 2232 OF 2016

- 1 Shri Ganesh s/o Ankush Pawar
age 29 years, occ. Service
- 2 Shri Shrikant s/o Bharat Gawali
age 23 years, occ. Service

Both r/o Vasanttrao Naik Secondary
Ashram School, Pimplagaon(Amba)
Tq. & Dist. Latur

Petitioner

Versus

- 1 The State of Maharashtra
Through its Secretary
Social Welfare Department
Maharashtra State,
Mantralaya, Mumbai 32
- 2 The Director,
V.J.N.T., OBC and SBC Department,
Maharashtra State,
Pune
- 3 The Divisional Deputy Commissioner,
Social Welfare Department,
Latur, Division Latur.
- 4 The Assistant Commissioner,
Social Welfare Department,
Latur.
- 5 Vasanttrao Naik Secondary Ashram School
Pimpalgaon(Amba) Tq. & Dist. Latur
Through its Headmaster

Respondents

Mr. V.B. Jadhav, advocate for petitioners.
Mr. K.N. Lokhande, A.G.P. for Respondents 1 to 4.
Mr. S.R. Shirsat, advocate for respondent no. 5.

**CORAM : R.M.BORDE &
K.K.SONAWANE, JJ.
DATE : 24th October, 2016**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1 Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 Petitioners are praying for issuance of directions to the Respondents to release salary payable to them since July 2015 till this date.

3 Petitioners are working in Respondent No.5-School since 2010. Appointments of petitioners, made in the year 2010, have been approved by Respondent No.3-Divisional Deputy Commissioner, Social Welfare Department, Latur Division, Latur. Initially, the Social Welfare Department accorded approval to the appointment of petitioners provisionally for the academic years 2010-2011, 2011-2012, 2012-2013 and 2013-2014. By issuing an order on 29.03.2015, Respondent No.3-Divisional Deputy Commissioner, Social Welfare Department, Latur Division, Latur, accorded permanent approval to the appointment of petitioners from 01.06.2014 onwards and has also granted them continuity in service. Respondent-State, however, has taken a decision to absorb surplus teaching and non teaching staff and not to grant approval to new appointments unless surplus teaching and non teaching staff is absorbed. According to the Respondents, strength of surplus non teaching staff in the Latur division was more than 22 and as such Respondent No.1 – Director of VJNT, OBC and SBC, Maharashtra State, Pune, on 01.10.2015, issued a letter

directing Respondent No.2 to withdraw the approval of employees who are appointed after 16.10.2012. It has also been directed to stop salary of employees whose appointments are contrary to Government Resolution dated 16.10.2012. It is further stated that on scrutiny of the relevant record, it is revealed that the Management, while appointing petitioners, has not followed the procedure laid down in Government Resolution dated 16.10.2012. It is also contended that no prior permission was obtained before publishing advertisement inviting applications for filling up the vacancies. It is stated that inquiry is contemplated in the matter and after receipt of report in respect of proposed inquiry, appropriate decision as regards approval granted to the petitioners would be taken.

4 It must be noted that as on today, petitioners are rendering their services in Respondent No.5-school and that their appointments have been approved by the competent authority. It is also worth to be taken note of that till this date, approval to the appointment of petitioners has not been withdrawn. In this view of the matter, since petitioners are in employment and their services have been approved by the competent authority. Until any adverse decision is taken in observance of the procedure prescribed, Respondents are not justified in stopping salary payable to the petitioners. It would be open for the Respondents to adopt appropriate procedure and take suitable decision taking note of alleged irregularity caused in according approval to the appointment of petitioners. It is also expected of the Respondents to extend opportunity of hearing to the petitioners since the adverse decision is likely to affect their right in respect of

continuance in service. Respondents are under an obligation to pay salary to the petitioners as long as they are in service in Respondent No.5-school, which is receiving grant-in-aid from the State Government.

5 Writ Petition is, thus, allowed. Respondents are directed to release salary payable to the petitioners from the month of July 2015 and continue to pay monthly salary to them subject to the decision, which Respondents may take in furtherance of report of the proposed inquiry. The arrears of salary shall be paid to the petitioners within a period of one month from today.

6 Rule is accordingly made absolute. There shall be no order as to costs.

K.K.SONAWANE
JUDGE

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R.M.BORDE
JUDGE