

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

21 WRIT PETITION NO. 4132 OF 2015
WITH CA/9023/2016 IN WP/4132/2015

BALAJI VITHALRAO MANJARAMKAR
VERSUS
STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Salgare Vitthal G.

AGP for Respondents: V.S. Badakh

Advocate for Respondents : Sandeep Munde h/f. S.S. Gangakhedkar for
R/3 and 4

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**CORAM : S.V.GANGAPURWALA &
P.R. BORA, JJ.**

DATED : 10.10.2016.

P.C. :-

1. Mr. Salgare, the learned counsel for the petitioner submits that, the petitioner was earlier working as a teacher and, thereafter, was appointed as Headmaster of the school "Tiny Angel School" run by the respondent no.3. The said school is on non-grant basis. According to the learned counsel, the petitioner is not paid the salary as per the scale provided under the Maharashtra Employees of Private Schools (Condition of Service) Regular Act, 1977 and Rules 1981.

2. The petitioner made representation to the respondent no.3, Management and the respondent no.2, Education Officer but no

cognisance has been taken by them. The petitioner possesses qualification of B.Sc. B.ed and has also completed the course of computer operator. The petitioner is entitled for the post of a trained graduate teacher. According to the learned counsel, the petitioner was not paid as per the pay scale, the respondents be directed to make the payment.

3. Respondent no.3 has filed an affidavit, wherein, the averments of the petitioner are controverted. The learned counsel has submitted that the petitioner has paid the salary as required.

4. It is further contended in the affidavit that the petitioner has resigned as an In charge Headmaster due to his personal problems on 30.04.2009.

5. There are rival contentions in this regard, whether the petitioner was paid the salary as per the pay scale or not has to be considered by the authority under the M.E.P.S. Act and Rules. The Deputy Director of Education is authorised to decide about the pay scale applicable to a particular teacher. The disputed questions of fact would arise. The record will have to be scanned, as such, it is appropriate that the parties appear before the Deputy Director of Education. Even under

Rule 7 of the M.E.P.S. Act and Rules, it is the Deputy Director who is entrusted to consider the same.

6. Mr. Salgare, the learned counsel further submits that, during the pendency of the present writ petition the petitioner is not allowed to work and it amounts to oral termination. The petitioner would like to assail the same before the school tribunal. The petitioner is at liberty take up the proceedings as are permissible in law in that regard.

7. In the light of the above we pass the following order.

8. The petitioner may approach the Deputy Director of Education with regard to his grievance of payment of salary as per pay scale. On receipt of the application from the petitioner. The Deputy Director of Education shall after hearing respondents and considering the record that may be placed before him shall decide the grievance of the petitioner with regard to the payment of the salary/pay scale expeditiously on its own merits, in accordance with law and policy, preferably within six months form the receipt of such application.

8. Writ petition disposed of. No costs. Civil application disposed of.

[P.R.BORA, J.]

[S.V. GANGAPURWALA, J.]