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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.4958/2005

Rajiya Begum Mohd.Ibrahim
aged 36 years, Occ.Nil,
R/o Gumand Roshan Khan Mohalla
Parbhani.

...Petitioner..

Versus

1] The State of Maharashtra
(through the Secretary Social
Welfare Department Mantralaya,
Mumbai)

2] Zilla Parishad
(through its Chief Executive Officer)
Parbhani.

3]The Commissioner and Competent Authority
under the persons with Disabilities (Equal
Opportunities, Protection of Rights
and Full Participation) Act,1995,
Maharashtra State,Pune.

4] The District Social Welfare
Officer,(Group A)
Zilla Parishad ,
Parbhani.

5] Azad Education Society and welfare Society
(through its Secretary Alisha Khan)
Naseem Manzil, Iqbal Nagar,
Parbhani.

6] The Head Master,
Rashtriya Residential Orthopaedically
Handicapped Vidyalalya,
Iqbal Nagar,Parbhani.

...Respondents...

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Shri K.M. Nagarkar, Advocate for petitioner.

Shri V.S. Badak, AGP for respondent nos.1 & 3.

Respondent no.4 served.

Shri U.B. Bondar, Advocate for respondent nos.5 & 6.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 13.10.2016

ORAL JUDGMENT (Per S.V. Gangapurwala, J.) :

1] Learned counsel for the petitioner states that this Court in Writ Petition No.5420/2003 under its judgment and order dated 11.12.2003 had directed the Police authorities; the Collector, Parbhani, so also District Social Welfare Officer to consider the grievances made by the petitioner on its own merits. The Police authorities had registered the case against the office bearers of the institution, a charge-sheet was also filed. However, according to his instructions, the accused are acquitted. The learned counsel submits that no proper enquiry was conducted as directed by this Court and a cryptic order came to be passed by the Collector, Parbhani. The management maintains two Muster rolls, that is the part of their mis-deed. No order of termination is issued to the

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petitioner, however, the petitioner is not allowed to work after 2003. The learned counsel submits that even till the date, the petitioner has worked, the petitioner is not paid any salary. No enquiry in that regard was made by the Collector, Parbhani. According to the learned counsel, large scale illegalities are committed by the respondents. Even juniors to the petitioner have been retained. Only because the petitioner has filed the writ petition, the respondents have harassed the petitioner.

2] Learned counsel for the respondent nos.5 & 6 submits that no illegalities have been committed by the respondents. The petitioner was given appointment order for a period of two years, however, she never joined the post as an Assistant Teacher in Rajiv Gandhi High School. The petitioner wanted appointment to be made in Rashtriya Asthivyang Vidyalaya, Parbhani. However, there was no vacancy in the said school. As the petitioner did not join the post of Assistant Teacher even for a single day, no question arises of paying any salary to the petitioner. According to the learned counsel, the Muster roll annexed to the petition is prepared by the petitioner.

3] We have considered the submissions canvassed by

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the learned counsel appearing for the parties.

4] Earlier also, the petitioner had filed Writ Petition No.5420/2003 making similar grievances. The Court, while disposing of the said writ petition under its order dated 11.12.2003, observed that it is not possible for it to accept all contentions that are raised by the petitioner in this petition. However, it would be appropriate to direct the Collector, Parbhani, the Superintendent of Police, Parbhani and the District Social Welfare Officer, Parbhani, to enquire into the applications filed by the petitioner indicating the deeds and mis-deeds of office bearers of the respondent nos.5 and 6 and they were directed to consider the application on its own merits. The Superintendent of Police has enquired into the matter and thereafter a charge-sheet is filed against the office bearers of the respondent nos.5 and 6. It transpires that subsequently there is acquittal in their favour as has been stated by the petitioner.

5] Be that as it may, the Collector, Parbhani, has also observed that the appointment of the present petitioner was never approved. The liability to pay salary was not of the State as the appointment was not approved

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and on going through the Muster roll from 28.9.2004, the name of the petitioner does not appear.

6] In fact, the grievance of the petitioner was till the date the petitioner has worked, according to the petitioner, i.e. from 1995 to 2002-03, no salary is paid, nothing appears to have been considered by Collector in that regard. The salary is not paid to the petitioner. According to the respondent nos.5 & 6, the petitioner did not work even for a single day and as such is not entitled for salary. Whereas, according to the petitioner, the petitioner has discharged her duties regularly till the year 2002-03. The Muster till the year 2003 ought to have been considered.

7] As the other grievances are already taken care of by the Police authorities and criminal case was also filed, in the present matter, we can only issue direction with regard to considering the record about the payment / non-payment of salary to the petitioner from 1995 till the period the petitioner had worked, according to the petitioner, so also the case of the respondent nos.5 and 6 that the petitioner having not worked. The same will have to be considered by the respondent no.4 after going through

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the record that may be produced by the parties.

8] In the result, we pass the following order.

O R D E R

The petitioner may approach the respondent no.4 and file a comprehensive application with regard to her claim of salary alongwith the documents relied upon by the petitioner. The respondent no.4, after hearing the petitioner and the respondent nos.5 & 6 and after considering the record that may be filed by the respective parties, shall take decision with regard to the claim of the petitioner for payment of salary for the period from 1995 to 2002-03 on its own merits on the basis of the record produced by the parties, expeditiously and preferably within a period of six months from the date of receipt of application from the petitioner. Rule is accordingly disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)