IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.6017/2015

Devidas S/o Govindrao Chavan
Age 47 years, Occu: Service,
R/o Parli, Tq.Parli,
District Beed.

..Petitioner..

Versus

1] The State of Maharashtra
Through,Secretary,
Social Justice and Special Assistance
Department, Mantralaya,Mumbai-32.

2] The Director,
V.J.N.T.,O.B.C. & S.B.C.
Maharashtra State, Pune.

3] The Divisional Deputy Commissioner,
Aurangabad Division, Aurangabad.

4] The Assistant Commissioner,
Social Welfare Department,
Beed, Tq.and Dist.Beed.

5] Madhyamik Ashram School,
Shivajinagar, Tq.Parli,Dist.Beed.
Through its Headmaster.

...Respondents..

WRIT PETITION NO.7884/2015

Gangutai Narayan Mahajan,
Age 59 years, Occu: Retired,
R/o C/o Bhaskar Mama Chate Niwas,
Near Bhagwanbaba Mandir, Shivaji Nagar,
Thermal Road,Parli, Tq.Parli,
District Beed.

..Petitioner..

Versus

1] The State of Maharashtra
Through,Secretary,
Social Justice and Special Assistance
Department, Mantralaya,Mumbai-32.

2] The Accountant General (A & E)-II,
Maharashtra State,Nagpur
In front of Ravi Bhavan, Nagpur.

3] The Director,
V.J.N.T.,O.B.C. & S.B.C.
Maharashtra State, Pune.

4] The Divisional Deputy Commissioner,
Aurangabad Division, Aurangabad.

5] The Assistant Commissioner,
Social Welfare Department,
Beed, Tq.and Dist.Beed.

6] Madhyamik Ashram School,
Shivajinagar, Tq.Parli,Dist.Beed.
Through its Headmaster.

...Respondents..

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Shri A.D.Pawar, Advocate for the Petitioners.
Shri B.A.Shinde, AGP for Respondent Nos.1 & 4.

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

DATE: 19.10.2016

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

1] Heard learned counsel for the parties. Rule.

Rule made returnable forthwith and with the consent of

learned counsel for the parties, these petitions are taken up for final disposal at this stage.

2] Learned counsel for the petitioners submits that the petitioners possess the qualification of B.A., B.P.Ed. The petitioners were appointed as Assistant Teacher on 13.6.1994 in WP 7884/2015 and on 1.6.1996 in WP 6017/2015. The petitioners in both these writ petitions had completed their D.Ed. on 31.12.2002. From 31.12.2002, the petitioners are paid the pay-scale of a trained Primary Teacher. However, from the date of their appointment till acquiring the qualification of D.Ed., the petitioners are paid salary as that of an untrained teacher. The learned counsel submits that vide the Government resolution dated 11.11.2011, the policy decision is taken by the State that if the teacher in the primary school possesses the qualification of graduate, then in that case, the said teacher since the date of his appointment has to be paid in the pay-scale of a trained Primary Teacher. The learned counsel also relies on the Government resolution dated 1.6.2000 stating that those teachers who have completed their B.P.Ed. with one school subject, then those teachers are not required to undergo

further degree course of B.Ed. Then the same is considered equivalent. The learned counsel submits that the proposal seeking approval for the pay-scale of a trained Primary Teacher since the date of their appointment till acquiring D.Ed. qualification has been rejected solely on the ground that the petitioners do not possess the B.Ed. qualification. The same is illegal. The mark memos placed on record specifically show that the petitioners had Marathi as a school subject.

3] The learned AGP states that the petitioners are not possessing B.Ed. qualification. As such, the Government resolution dated 11.11.2011 does not come to the aid of the petitioners. No error has been committed by the Assistant Commissioner of Social Welfare while rejecting the proposal of the petitioners seeking pay-scale of a trained Primary Teacher.

4] We have considered the submissions canvassed by the learned counsel for the parties.

5] It is not disputed that the petitioners possess the qualification of B.A., B.P.Ed. at the time of their initial appointment and subsequently they have acquired D.Ed. qualification in the year 2002. There is no

dispute with regard to the pay-scale being paid to the petitioners after having acquired D.Ed. qualification. The only dispute is for a period since the date of appointment till the petitioners acquired D.Ed. qualification. For the said period, the petitioners are paid in the scale of untrained teacher. The Government resolution dated 11.11.2011 explicitly lays down that even those teachers who do not possess D.Ed. qualification but are possessing graduate degree can be considered as trained Primary Teachers. The Government resolution dated 1.6.2000 also states that those persons who have completed B.P.Ed. course alongwith one another school subject are to be considered eligible and are given exemption from passing B.Ed. course. The affidavit in reply filed by the respondent no.4 is also on the premise that the petitioners do not have teaching subject at the level of B.P.Ed. and as such are not entitled to get the benefit of Government resolution dated 1.6.2000. The mark memos produced on record prima facie show that the petitioners had Marathi as one of the school subjects. The said factum was not probably placed before the respondent authority nor the proposal contained such

a explanation.

6] Considering the above, the impugned orders are quashed and set aside. The respondent authority shall decide the proposal of the petitioners seeking trained primary teachers pay-scale from the date of their appointment till acquiring D.Ed. qualification on its own merits in accordance with law expeditiously and preferably within six months. The petitioners may place on record before the respondent authority the documents on which they seek to place reliance. Rule is accordingly made absolute in above terms. No costs.

(K.L. WADANE, J.) **(S.V. GANGAPURWALA, J.)**