

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

WRIT PETITION NO.6739 OF 2016

1. Ramchandra Bhagoji Wadhe,
Age 68 Years. Occu. Pensioner
R/o. Anand Nagar, Akola By-pass,
Balsond, Tq. & District Hingoli
2. Bhagwan Madhavrao Paraswale,
Age 73 years, Occu : Pensioner,
R/o. Narayan Nagar, Hingoli,
Tq. and District Hingoli.
3. Sadashiv Nivrutti Jadhav,
Age 70 years, Occu. Pensioner,
R/o. Shrinagar, Akola Road,
Hingoli, Tq. & District Hingoli.
4. Fulchand Pandmakar Satpure,
Age 69, Occu: Pensioner,
R/o. Jijamata Nagar, Hingoli,
Tq. and Dist. Hingoli.
5. Sau. Shakuntala Fulchand Satpute,
Age 67 years, Occu : Pensioner,
Jijamata Nagar, Hingoli,
Tq. and District Hingoli.
6. Sau. Indirabai Tukaram Pattebahadur,
Age 73 years, Occu. & R/o. as above.
7. Nivrutti Tulshiram Borkar,
Age 71 years, Occu : Pensioner,
At Post Rithad, Tq. Risold,
Dist. Wahim.
8. Limbaji Narayan Waman
Age 71 years, Occu: Pensioner,
R/o. At Post Singi Naga,
Tq. Sengaon, Dist. Hingoli.

9. Sopan Raghoji Kale,
Age 71 years, Occu. Pensioner,
R/o. Savargaon Jire, Tq. and
District Washim.
10. Sau. Latadevi Vasantkumar Bande
Age 69 years, Occu : Pensioner,
At Post Kata, Tq. & Dist. Washim.
11. Murtaja Beg Gulam Beg
Age 73 years, Occu : Pensioner,
Risala Bazar, Hingoli,
Tq. and District Hingoli.
12. Shaikh Ashraf Sk. Vajir
Age 69 years, Occu : Pensioner,
R/o. Ajam Colony, Hingoli,
Tq. & Dist. Hingoli.
13. Fazal Khan Hayat Khan Pathan
Age 70 years, Occu : Pensioner,
R/o. Hasan Nagar, Hyderabad (A.P.)
14. Eknath Vishwanath Gaikwada
Age 70 years, Occu: Pensioner,
R/o. Vikas Nagar, Parbhani,
Tq. and District Parbhani
15. Uddhavrao Amrutrao Zunjare
Age 73 years, Occu: Pensioner,
R/o. Shukrawar Peth, Washim,
Tq. and District Washim
16. Rabbanibi Shaikh Nawab
Age 64 years, Occu: Household,
R/o. At Post Sawad, Tq. Risod,
District Washim.
17. Ganpatrao Govindrao Paikrao
Age 71 years, Occu: Pensioner
R/o. At Devthana, Post Tondgawa,
Tq. Washim, District Washim **PETITIONERS**

VERSUS

1. The State of Maharashtra
Through: Secretary,
Ministry of School Education,
Mantralaya, Mumbai – 32.
(Copy to be served on Govt. Pleader,
High Court, Bombay, Bench at
Aurangabad)
2. The Deputy Director of Education,
Aurangabad, Dist. Aurangabad.
3. The Chief Executive Officer,
Zilla Parishad, Hingoli,
District Hingoli.
4. The Education Officer (Primary)
Zilla Parishad, Hingoli,
District Hingoli. **RESPONDENTS**

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Mr.B.S.Kudale, Advocate for petitioners
Mr.S.P.Deshmukh, AGP for Respondent / State
Respondent nos.3 and 4 served.

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**CORAM: S.S.SHINDE &
P.R.BORA, JJ.**

Reserved on : 25.07.2016
Pronounced on : 27.07.2016

ORDER: (Per S.S.Shinde, J.):

1. This Petition takes exception to the
order dated 10.02.2013 issued by respondent
no. 3 - Chief Executive Officer, Hingoli,
bearing Outward No. ZP/CV/Adm./1073/13/Edu.

Dept./ZP, Hingoli, and seeking directions for grant of salary in the pay band of Rs.1200-2040/- since 1986 and in the pay band of Rs.4500-7000/- since 1996 onwards, and also seeking directions for release of monetary benefits in accordance with determination of pay band, so also, seeking disbursement of monetary benefits to the petitioner as expeditiously as possible.

2. It is the case of the petitioners that the petitioners are serving as Primary Teachers in the School operated by Zilla Parishad and appointed in between 1964 to 1971. The petitioners are giving herein below a chart showing their educational qualification, date of appointment and date of retirement from the services.

Petitioners number as per title	qualification of petitioners	Date of appointment	Date of retirement
01.	SSC	27.07.1971	31.08.2005
02.	HSC	01.07.1964	31.01.2001

03.	SSC	23.08.1965	31.03.2004
04.	HSC	29.07.1967	31.08.2004
05.	SSC	01.09.1970	31.03.2007
06.	SSC	31.08.1967	31.07.2000
07.	SSC	13.09.1965	01.03.2003
08.	HSC	04.08.1966	31.05.2003
09.	SSC	26.06.1967	30.01.2002
10.	SSC	24.07.1970	31.12.2004
11.	SSC	12.08.1965	31.03.2003
12.	SSC	22.07.1970	31.08.2004
13.	SSC	01.09.1967	30.06.2003
14.	SSC	24.07.1971	30.06.2002
15.	HSC	27.07.1967	31.01.2001
16.	Deceased – SSC Sk.Nawab Through LR Rabbanabi	16.09.1965	31.08.2003
17.	SSC	01.09.1967	30.06.2003

The husband of petitioner no.16 passed SSC. He died on 09.05.2012. Petitioner no.16 is the wife, who is representing Sk. Nawab Sk. Pyare Mohammad as a legal heir. All the petitioners possess SSC/HSC qualification and they are deemed trained teachers (Primary). Respondent No.3 Chief Executive Officer, Zilla Parishad, Parbhani, was the Head of Zilla Parishad, Hingoli before formation of Hingoli District and he has issued the list

of deemed trained teachers of Parbhani District including the present petitioners, who were from Hingoli District.

3. It is further the case of the petitioners that in the deemed trained teachers' list, their names are shown in the list of Parbhani District dated 06.06.1991 at serial nos. i.e. the petitioner nos.2, 5, 6, 8 to 17 at serial Nos.14, 16, 17, 8, 18, 4, 25, 3, 5, 51, 11, 7 and 10 and in the 2nd list of Hingoli District, the petitioner nos.1, 3 and 7 at serial nos. 1 to 3 respectively. The Government Resolution dated 04.10.1983 issued by the Education and Employment Department, Mantralaya, Mumbai, thereby declaring that the teachers appointed prior to 02.07.1972 are possessing SSC/HSC qualification are deemed trained teachers. In the aforesaid Government Resolution, it has been further directed that such teachers shall be entitled to claim monetary retiral

benefits treating them as deemed trained teachers.

4. It is further the contention of the petitioners that as per the said Government Resolution, respondent Chief Executive Officer, Zilla Parishad, Hingoli, by an order dated 10.02.2013 issued order of pay band as Rs.1200-1800/- from 01.01.1986 to December, 1995 and from 01.01.1996 onwards Rs.4000-6000/- and the service band was to be given from the date of retirement. It is further the case of the petitioners that all the petitioners are given benefits by the Zilla Parishad in the pay scale of Rs.975-1660/- from 1986 onwards and pay scale of Rs.3200-4900/- from 1996. The petitioners made oral representation to the Chief Executive Officer, Hingoli that they are entitled to claim salary in the pay scale prescribed for deemed trained teachers in accordance with Schedule-C, Part-I, item 4-C

applicable to the Maharashtra Employees of Private Schools [Conditions of Service] Rules, 1981 [for short 'the Rules of 1981'] and as per the Government Resolution dated 04.10.1983. However, the Chief Executive Officer did not properly appreciate the contention of the petitioners and by misinterpreting the said provisions and the Government Resolution has granted pay scale of Rs.1200-7800/- from 01.01.1986 onwards and Rs.4000-6000/- from 01.01.1996 onwards, which is contrary to the provisions made in the Government Resolution dated 04.10.1983. Hence this Writ Petition.

5. The learned counsel appearing for the petitioners submits that the Bombay High Court Bench at Aurangabad in similar set of facts in group of Writ Petitions filed by the similarly situated employees like the petitioners has taken a view that the petitioners therein are deemed trained

teachers and entitled for the pay scale of Rs.1200-2040/- since 1986 onwards and pay scale of Rs.4500-7000/- since 1996 onwards. The petitioners are standing on the same footing and therefore they are also entitled for the aforementioned pay scale as granted by this Court in the case of similarly situated employees. It is further submitted that the respondent Zilla Parishad even did not bother to make payment as per the pay scale prescribed by issuing order dated 10.02.2013.

6. Though, the notices are issued for final disposal of this Petition on 28th June, 2016, and the respondents are served, none appears for the respondent Zilla Parishad, therefore, pleadings and grounds taken in the Petition remained unconverted on behalf of the respondent Zilla Parishad.

7. We have heard the learned counsel

appearing for the petitioners and the learned AGP appearing for the respondent – State. With their able assistance, perused the pleadings in the Petition, grounds taken therein, annexures thereto and the documents placed on record. The Division Bench of the Bombay High Court Bench at Aurangabad in the case of *Tryambak s/o. Sonajirao Patil Vs. State of Maharashtra and others* in Writ Petition No.1311/1997 along with connected Writ Petitions has considered the similar controversy and reached to the conclusion that the petitioners, in the said Writ Petition, are appointed prior to July 1972 and holding SSC qualification are declared as deemed trained teachers and are entitled to draw initial salary in the pay band of Rs.1200-2040 since 1986 and in the pay band of Rs.4500-7000/- since 1996 onwards. Accordingly, the Division Bench directed the respondents to release monetary benefits in

accordance with the determination in the light of the observations made in the said Judgment. Respondents were directed to disburse monetary benefits receivable by each of the petitioner within a period of six months from the date of Judgment.

8. In the facts of the present case also, it is evident that each of the petitioners i.e. petitioner nos.2, 4, 8, 15 who were HSC and petitioner nos.1,3,5,6,7,9, 10,11,12,13,14,16 and 17 who were possessing SSC qualifications, were appointed during the period from 01.07.1964 to 27.07.1971 on the respective dates mentioned in para 2. They have retired from the services on attaining the age of superannuation. Therefore, applying the ratio laid down in the case of Tryambak s/o. Sonajirao Patil (supra), since the petitioners herein are appointed prior to July 1972 and are holding SSC qualification, are declared as deemed trained teachers and

are held entitled to draw initial salary in the pay band of Rs.1200-2040/- since 1986 and in the pay band of Rs.4500-7000 since 1996 onwards. Accordingly, the impugned order dated 10.02.2013 issued by respondent no.3 Chief Executive Officer stands quashed and set aside. The respondents are, therefore, directed to release monetary benefits in accordance with the determination as above. Respondents shall disburse monetary benefits receivable by each of the petitioner, as expeditiously as possible, preferably within a period of six months from today. Accordingly, the Writ Petition is disposed of.

Sd/-
[P . R . B O R A]
JUDGE

Sd/-
[S . S . S H I N D E]
JUDGE