

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

WRIT PETITION NO. 6517 OF 2012

**RAMNATH SHIVRAM SAWANT
VERSUS
THE STATE OF MAH AND ORS**

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Advocate for Petitioner: Mr.Nagarkar Kiran M.
AGP for Respondent/State : Mr. A.G. Magre

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**CORAM : S.S. SHINDE & SANGITRAO S. PATIL, JJ.
Dated: June 09, 2016**

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PER COURT :-

Heard the learned counsel appearing for the petitioner and the learned A.G.P. appearing for the Respondent/State and State Authorities.

2. Perused the pleadings/grounds taken in the Petition, annexures thereto and reply filed by the Respondents.

3. The petitioner being aggrieved by the observations made by the Deputy Director of Education Pune Region, Pune in the letter dated 27th June, 2012 addressed to the Principal, Rural High School and Junior College, Puntamba, Tq. Rahata, Dist. Ahmedangar has filed this Petition. According

to the learned counsel appearing for the petitioner, the petitioner was appointed as Junior lecturer in the year 2006 by the Respondent – Management. His services have been approved by the State Government by issuing Government Resolution dated 31st January, 2011. It is submitted that the Government Resolution dated 15th September, 2011 could not have been made applicable retrospectively to the case of the present petitioner, in as much as, the petitioner has been appointed as Junior Lecturer in the year 2006. Therefore, the learned counsel appearing for the petitioner submits that the Petition may be allowed.

4. On the other hand, the learned A.G.P., relying upon the averments made in the affidavit in reply filed by Respondent Nos. 1 and 2, submits that the order/communication impugned in this Petition, is in consonance with the conditions reflected in the Government Resolution dated 15th September, 2011. Therefore, he submits that this Court may not entertain the Petition.

5. We have heard the learned counsel appearing for the petitioner and the learned

A.G.P. appearing for the Respondent/State. It appears from perusal of the letter addressed by the Secretary of the Respondent – Management to the petitioner on 6th May, 2006 at Exhibit 'H' Page 56 of the compilation of the Writ Petition that the petitioner was appointed as Lecturer keeping in view his experience working as teacher from the year 2000 and also his experience of teaching w.e.f. 20th June, 1990 as a teacher. It further appears that the petitioner filed Writ Petition No. 5466/2005 seeking directions to the Respondents to grant approval to his services as Lecturer. Pursuant to the same, the Government Resolution was issued on 31st January, 2011 by the School Education and Sports Department, by which the approval is granted to the post on which the petitioner was appointed as a Lecturer. Therefore, it is difficult to understand that on what basis, the Director of Education, Pune Region, Pune has given reference of the Government Resolution dated 15th June, 2011 in the impugned communication. Even if Rule 41(5)(b) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 is taken into consideration, it is clear that the transfer

of teachers in secondary school shall be made to a Junior College of Education provided that his pay in the Junior College of Education shall be fixed at the same stage of pay as their existing pay or at the minimum of the scale of pay in the junior College of Education, whichever is higher. In the present case, from the date of appointment of the petitioner i.e. from 6th May, 2006, the petitioner is working in Junior college and his pay scale in the Junior College of Education shall be fixed at the same stage of pay as his existing pay or at the minimum of the scale of pay in the junior College of Education

6. Therefore, the observations "तथापि शासन निर्णय दिनांक १५/६/२०११ मधील तरतुदीनुसार त्यांच्या सध्याच्या माध्यमिक कडील वेतन श्रेणीस संरक्षण राहणार नाही" stand quashed, by maintaining the remaining contents of the communication dated 27th June, 2012.

7. The Petition is allowed to the above extent and same stands disposed of.

(SANGITRAO S. PATIL, J.) (S.S. SHINDE, J.)