

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.8136 OF 2016

**Vinit Kashinath Kolte and others Vs. The State of
Maharashtra and others.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.V.D.Hon, Senior advocate i/by Mr.A.D.Sonar,
advocate for the Petitioners.
Mr.V.S.Badakh, A.G.P. for the State.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**
Date : 26.10.2016.

PER COURT :

1. Heard.
2. The petitioners herein are working as Clerks and/or Peons with Respondent No.5. Mr.Hon, learned Senior advocate for the petitioners states that since May 2016, the petitioners are not paid the salary. The petitioners are appointed by following due selection process. According to learned Senior advocate, the Respondents be directed to pay the arrears of salary and salary from every month to month regularly.
3. Mr.Talekar, learned counsel for Respondent Nos.4 and 5 submits that the appointment of petitioners is not in consonance

with the provisions of the Statute. The entire selection process was carried out by the then Management without taking into consideration the directions issued by the Respondent No.3 District Deputy Registrar in the sanction order dated 4.1.2014. One post of Peon is filled in excess than the sanctioned strength. The same was pursuant to the orders of the Court. One Rekha Bhamre was appointed on compassionate ground. The entire selection process was bad in law being in violation of the orders of Respondent No.3.

4. Mr.Badakh, learned A.G.P. states that Directorate of Marketing had called the report from the District Deputy Registrar, Cooperative Societies in this regard. The report is submitted by the District Deputy Registrar.

5. We have considered the submissions.

6. It is not disputed that the petitioners are working as Clerk and/or Peon with Respondent No.5. The petitioners are appointed on sanctioned post. There is only one Peon appointed excess. The same is after the appointment of the petitioners.

7. When petitioners are discharging their duties then in that case the petitioners are required to be paid salary. The Respondent No.5 can not extract the work from the petitioners without payment of salary.

8. In the present matter, we are not considering about the legality or otherwise of the appointment of the petitioners as the

petitioners are still discharging their duties, we have observed that the Respondents are bound to make payment to the petitioners.

9. In the result, we pass the following order :

a) The Respondent Nos.4 and 5 shall make payment of the salary of the petitioners month to month as they are discharging their duties and the arrears of the salary shall be paid expeditiously.

Mr.Talekar, learned counsel on instructions of the Secretary of A.P.M.C., Yawal, who is present in the Court states that before Diwali, arrears of three months salary would be paid to the petitioners. The same statement is accepted and remaining arrears of salary be paid expeditiously to the petitioners.

b) The Respondent Nos.4 and 5 are at liberty to forward proposal to the State with regard to the sanctioned posts.

c) The Writ Petition is accordingly disposed of. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.26.10.2016.

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