

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

7 WRIT PETITION NO. 8252 OF 2013

1. Mr. Deelip s/o Anandrao Gavane
Age 40 years, Occu: Service
R/o Devarjan, Tq. Udgir, District
Latur

2. Umakant s/o Govind Gunale ... **Petitioners**
Age 45 years, Occu: Service
R/o Devarjan, Tq. Udgir, District
Latur

VERSUS

1. The Secretary,
Department of School Education,
Mantralaya, Mumbai 400 032

2. The Deputy Director of Education
Llatur Region, Latur.

3. The Education Officer,
(Primary), Zilla Parishad, Latur.

4. The Headmaster, ... **Respondents**
Mahatma Phule Prathamik
Vdhyamandir, Devarjan,
Taluka Udgir, Dist. Latur

Mr. V. S. Panpatte, Advocate for the petitioner,
Mrs.S. S. Raut, AGP for respondents 1 and 2- State
Mr. P. R. Tandale, Advocate for respondent No.2
Mr. P. G. Rodge, Advocate for respondent NO.4

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

DATE : 28th November, 2016

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

1. Heard the learned counsel for the parties.

2. Rule. Rule made returnable forthwith. With consent of parties, the petition is taken up for final disposal.

3. Mr. Panpatte, the learned counsel for the petitioners submits that during the pendency of the present writ petition, the petitioners have received service book and also the higher pay scale as is held by the Deputy Director of Education in his report submitted to this Court on 30th July, 2016, however, have not received the salary for the period from March, 2012 to July, 2012, October, 2012 to March, 2013 and 1st April, 2013 to 12th April, 2013. According to the learned counsel, the petitioners are entitled for the salary for the said period also.

4. Mr. Rodge, the learned counsel for respondent No.4- Headmaster submits that the petitioners are not entitled for the salary during the period of their absence. They cannot claim salary without officiating their duties. Even the Education Officer has filed an affidavit earlier stating that petitioners, during the said period, have not worked. According to the learned counsel, the other aspects are complied by the Institution. Service books have been handed over and

even higher pay scale is given.

5. Mr.Tandale, the learned counsel appears for the Education Officer (Primary) and submits according to the affidavit filed.

6. The learned AGP states that pursuant to the directions of this Court, the Deputy Director of Education has conducted the enquiry and submitted the report. The same was after hearing the Education Officer and the parties concerned.

7. We have considered the submissions.

8. Considering the dispute between the parties, this Court, under order dated 14th June, 2016, had directed the Deputy Director of Education to make enquiry with regard to the grievance of the petitioners. The Deputy Director of Education, after hearing the parties and considering the record placed before it, has submitted its report to this Court on 30th July, 2016. We have perused the said report. In the said report, the Deputy Director of Education has held the entitlement of the petitioners for the salary during the interregnum so also the entitlement of the petitioners to the higher pay scales.

9. It is submitted that the service books are already handed over to the petitioners and the petitioners have also received the higher pay scale, upon completion of 12 years. Considering the report of the Deputy Director of Education, respondent No.4 Headmaster shall forward the salary bill of the petitioners for the period from March, 2012 to July, 2012, October, 2012 to March, 2013 and 1st April, 2013 to 12th April, 2013 within one month from today.

10. Upon receipt of the same, the Education Officer (Primary) shall process it and sanction the same as per law expeditiously, preferably within three months.

11. Rule is made absolute accordingly in above terms. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC