

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

15 WRIT PETITION NO. 9032 OF 2015

SHAKIL AHAMED MOHD KASIM AND ANOTHERS
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioners : Mr. Salgar Suresh P
AGP for Respondents State: Mrs. Vaishali H. Patil
Advocate for Respondent No.2 : Mr. A. D. Aghav

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

DATE : 16th November, 2016

ORDER:

1. The grievance of the petitioners is that the petitioners were appointed in July, 2001 and 2003. Proposal seeking approval to their appointment was sent to the Education Officer by the Institution. The Education Officer returned back the said proposal on the ground that the same is not in proper form. Subsequently, the institution did not comply the deficiency.

2. Mr. Salgar, the learned counsel for the petitioners submits that the petitioners are not paid salary since the date of their appointment till closure of the school. The Management is responsible to pay the same. Provisions of M.E.P.S. Act and Rules apply, even if, services are not approved and the petitioners have

worked with the unaided school.

3. Mr. Agav, the learned counsel for respondent No.2 submits that the Education Officer had received the proposal seeking approval to the appointment of the petitioners but the same was not in proper form and as such was returned back. Letter was also given to the Institution but the Institution never sent back the proposal.

4. When the petitioners are appointed in non grant-in-aid school, it is not the liability of the Education Department to make payment of salary to the petitioners. The petitioners, if were in service and have performed their duties with the respondent Institution, it is for Respondent Institution to pay salary of the petitioners.

5. It is submitted that now the said school is also closed down. The Education Officer shall ask for the record of the Institution and may pass order with regard to the approval.

6. As far as payment of salary is concerned, the petitioners may approach the Deputy Director of Education with regard to the salary, if payable to the petitioners and arrears, if any.

7. The Deputy Director of Education, on receipt of such application, if any, shall take decision with regard to the payment of salary to the petitioners from the Institution after hearing the petitioners and the Institution and considering the record that may be submitted by either of the parties and decide the same, expeditiously, preferably within a period of 6 months from the date of receipt of the application.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC