

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

WRIT PETITION NO.10174 OF 2015

Shaikh Mazharuddin S/o Kutboddin
Age: 51 Years, Occu: Service,
R/o.158, Gazi Nagar, Sakri Road
Nandurbar, Dist. Nandurbar.

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Secretary,
School Education & Sports Department,
Mantralaya, Mumbai-32.
2. The Director of Education
(Secondary and Higher Secondary)
Maharashtra State, Pune.
3. Dy. Director of Education,
Nashik Division, Nashik.
4. Education Officer (Secondary),
Zilla Parishad, Nandurbar.
5. The Secretary
Almeejan Educational and Welfare
Society, Nandurbar,
Dist. Nandurbar.

...RESPONDENTS

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Mr. Prakashsingh B. Patil, Advocate for the Petitioner;
Mr. U.H.Bhogle, AGP for the Respondent Nos.1 to 4.

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

DATED : 17th February, 2016

ORAL JUDGMENT: [Per S.S.Shinde, J.]:

- 1) Heard.
- 2) Rule. Rule made returnable forthwith, and heard finally with the consent of the parties.
- 3) This Petition takes exception to the letter dated 22.09.2015 issued by the respondent No.3, by which benefit granted to the petitioner, by virtue of Clause-6 of Government Resolution dated 24.01.2013, is refused.
- 4) The learned Counsel appearing for the petitioner invited our attention to the contents of the Government Resolution dated 24.01.2013 issued by School Education and Sports Department, Mantralaya, Mumbai, and particularly Clause-6 of the said Resolution, and submits that, by the said Resolution, the petitioner is held to be entitled for grant of two advanced increments. The name of the petitioner stands at Sr. No.28 in the list accompanied with the Government Resolution. It is submitted that, the respondents should not have refused to grant the said benefit conferred by the Government resolution dated 24.01.2013. In view of the subsequent Government Resolution dated 04.09.2014 issued by School

Education and Sports Department, Mantralaya, Mumbai, by which, instead of granting two advanced increments, the State Government decided to give Rs.1,00,000/- to the State Awardee Teachers. According to the Counsel appearing for the petitioner, Government Resolution dated 04.09.2014 cannot be applied to the case of the petitioner. The said Government Resolution has to be applied prospectively, in view of Clause-3 of the said Government Resolution. Therefore, he submits that, the impugned communication may be quashed and set aside and the petition may be allowed.

5) On the other hand, the learned AGP appearing for the State relying upon the impugned communication, submitted that, the petition may be rejected.

6) We have given careful consideration to the submissions of the learned counsel appearing for the petitioner and learned AGP appearing for the respondent Nos.1 to 4. Admittedly, the petitioner's name stands at Sr.No.28 in the list of State Awardee Teacher dated 24.01.2013, which is placed on record along with Government Resolution dated 24.01.2013 at Exhibit 'C', page No.15 of compilation of the writ petition. Upon careful

perusal of the Government Resolution dated 04.09.2014 issued by the School Education and Sports Department, Mantralaya, Mumbai, it is abundantly clear that, Clause No-3 of the said Government Resolution is made applicable with effect from issuance of the said Government Resolution. Therefore, the provisions of the said Government Resolution would not govern to the case of petitioner, as a result, the petitioner is entitled for benefits, which are provided in Government Resolution dated 24.01.2013. Clause-6 of the said Government Resolution reads thus.

६. राष्ट्रीय / राज्य पुरस्कार प्राप्त शिक्षकांना पुरस्कार जाहीर झाल्याचा दिनांकापासून दोन आगाऊ वेतनवाढी देण्याची राज्य शासनाची योजना कार्यान्वित आहे. जे शिक्षक त्यांच्या वेतनश्रेणीच्या कमाल मर्यादेपर्यंत पोहोचले असतील अशा शिक्षकांना त्यांच्या वेतनश्रेणीच्या कमाल मर्यादेच्या आगोदरच्या वेतान्वाधीच्या ४८ पट ठोक रक्कम देण्यात येते. वेतनश्रेणीच्या कमाल मर्यादेच्या एक टप्पा आगोदर वेतन घेणाऱ्या शिक्षकांना एक आगाऊ वेतनवाढ आणि वेतनवाढीच्या २४ पट ठोक रक्कम देण्यात येते. तसेच, जे शिक्षक, पुरस्कार जाहीर झालेय दिनांकापुर्वी नियत वयोमानानुसार सेवानिवृत्त झाले असतील अशा पुरस्कार प्राप्त शिक्षकांना / मुख्याध्यापकांना अनुक्रमे रुपये ३०००/- व रुपये ५०००/- ठोक रक्कम देण्यात येते.

7) In the light of the discussion, made in foregoing

paragraphs, the impugned communication dated 22.09.2015 is quashed and set aside. The Respondent Nos. 1 to 3 are directed to grant the benefit to the petitioner, keeping in view the provisions of Government resolution dated 24.01.2013, and in particular Clause-6 thereof, as expeditiously as possible and preferably within a period of six months from today.

13] Rule made absolute on above terms. Petition stands disposed of on above terms.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

SPR