

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

WRIT PETITION NO. 11357 OF 2015

Shaikh Subhan Shaikh Hasan
age 33 years, occ. Service
r/o Plot No. 26,
Lunar Huosing Society
F Sector, CIDCO,
N 12, Aurangabad.

.. PETITIONER

VERSUS

1. Joint Director
Higher Education
Office of Joint Director
(Higher Education)
Ner Deogiri College,
Aurangabad.
2. Dr. Babasaheb ambedkar Marathwada
University, University Compus
Aurangabad
through its Registrar
3. Maulana Azad Education Society
Through its Chairman
Dr. Rafiq Zakaria Campus
Rouza Baug,
Aurangabad.
4. Marathwada College of Education
Through its Principal
Dr. Rafiq Zakaria Campus
Rouza Baug, Aurangabad.
5. The State of Maharashtra
Through its Secretary
Higher and Technical Education Department,
Mantralaya, Mumbai

.. RESPONDENTS

Mr. R.R. Mantri, advocate for petitioner.
Mr. S.B. Pulkundwar, AGP for the State.
Mr. S.G. Chapalgaonkar, advocate for respondent no. 2.
Mr. V.V. Deshmukh, advocate for respondent no. 4.

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**CORAM : R.M. BORDE &
P. R. BORA, JJ.
DATE : 21st MARCH, 2016.**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Heard.

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

3. Petitioner is praying for issuance of directions to respondent no. 1 to pay salary and arrears together with other consequential benefits w.e.f. 01.07.2014 within specified period.

4. Petitioner claims that he has been appointed as Assistant Professor in respondent no. 4 – college to teach History subject in Marathi medium. According to petitioner, appointment has been made after observing due procedure and the University has also accorded approval to his appointment by issuing order on 07.05.2015. Respondent no. 1, however, refused to release grant-in-aid for disbursement of salary on account of pendency of certain disputes raised by other employees of the college with the University tribunal and one writ petition presented to this Court. According to petitioner, the dispute raised by other employees is of totally different character since those employees are appointed to teach relevant subjects in Urdu medium whereas the post occupied by petitioner is that of Assistant Professor to teach History subject in Marathi medium. Another objection raised is in respect of observance of procedure prescribed for making

appointment to the post. Since the University has accorded approval to the appointment, the objection raised by respondent no. 1 in that regard does not bear any substance. Learned counsel for respondents 3 and 4 states on instructions that any financial liability in the event of success of appeals presented to the University tribunal or writ petition presented to this Court is not likely to accrue affecting the post occupied by the petitioner herein. However, even if any liability accrues affecting disbursement of salary grants available to petitioner, respondents 3 and 4 shall bear the responsibility thereof. In view of submissions made on instructions by learned counsel for respondents 3 and 4, objection raised by respondent no. 1 in respect of withholding of salary grants and other dues admissible for disbursement in favour of petitioner does not survive. Writ petition is therefore allowed. Respondent no.1 is directed to release the salary grant for disbursement of salary in favour of petitioner, as expeditiously as possible, preferably within a period of eight weeks from today. Rule is accordingly made absolute. In the facts and circumstances of the case, there shall be no order as to costs.

(P. R. BORA)
JUDGE

(R. M. BORDE)
JUDGE

dyb