

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

WRIT PETITION NO. 268 OF 2016

TARANNUM BANO MANZOOR AHMAD ANSARI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr.Paranjape Prakash S
AGP for Respondents/State: Mr.S.D. Kaldate.

...

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

Dated: FEBRUARY 22, 2016

...

PER COURT:

Heard learned Counsel for the petitioner and
learned AGP appearing for the respondents / State.

2 This petition takes exception to the impugned
letter issued in April, 2014 refusing to release
salary of the petitioner. The learned Counsel for
the petitioner submits that the respondent No.3 is
a minority institution and its status as minority
institution is continued by issuing certificate from
time to time. He further submits that the
Government Resolution dated 2nd May, 2012, which
is relied upon by the respondent No.2 in the

impugned communication, is not applicable while considering the cases of the employees who are rendering services in minority institutions. The learned Counsel for the petitioner invited our attention to the unreported judgment delivered on 2nd September, 2013 by Division Bench of Bombay High Court, Bench at Aurangabad in case of **Parbhani Education Society, Parbhani Vs. The State of Maharashtra and Anr. in Writ Petition No.3707 of 2013** and submitted that, in the said decision, it is observed that, appointments by minority institutions would not be able to be withheld till the time surplus teachers are accommodated / absorbed. In that view of the matter, he submits that the petition deserves to be allowed.

3 On the other hand, learned AGP appearing for respondent No.1 – State, relying upon the reasons assigned in the impugned communication, submits that, till all surplus teachers are absorbed / accommodated, the respondent No.2 has rightly stopped payment of salary to the petitioner.

4 We have given careful consideration to the rival submissions of the learned Counsel for the parties. With their able assistance, perused the pleadings in the petition, annexures thereto and

the judgment of the Division Bench of this Court in case of **Parbhani Education Society, Parbhani** (supra). In paragraph 14 of the said judgment, Division Bench of this Court observed that, appointments by minority institutions would not be able to be withheld till the time surplus teachers are accommodated / absorbed.

5 Therefore, in our opinion, for the reasons assigned in the communication, further stay to the payment of salary to the petitioner cannot be legally sustained.

6 In that view of the matter, the impugned communication stands quashed and set aside. The respondent No.2 is directed to act upon the proposal of the respondent No.3 and release salary of the petitioner within four weeks from today, if she is otherwise eligible. The proposal should not be turned on the ground of non absorption of surplus teacher by respondent No.3. Petition stands disposed of on above terms.

Parties to act upon authenticated copy of this order.

(P.R. BORA, J)

(S.S. SHINDE, J)