

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

**WRIT PETITION NO.2079 OF 2017**

Prabhakar S/o Ananda Rajale ... Petitioner.

Versus

The State of Maharashtra  
and others ... Respondents.

...

Mr.A.D.Pawar, advocate for the petitioner.  
Miss. R.P.Gaur, A.G.P. for the State.

...

**CORAM : S.V.GANGAPURWALA AND  
SANGITRAO S. PATIL, JJ.**

**Date : 17.04.2017.**

**PER COURT :**

1. Mr. Pawar, the learned counsel submits that, the petitioner is claiming pay scale as that of trained teacher. At the time of appointment the petitioner was possessing qualification of B. A. B. P. Ed., but did not

receive pay scale of trained teacher till the petitioner acquired qualification of D. Ed. on 7.6.2004. The petitioner filed writ petition. The Court directed to consider the representation filed by the petitioner and further directed to decide the said representation in accordance with the judgment delivered by this Court, still the same is rejected by the authorities. The learned counsel relies on the judgment of this Court in Writ Petition No. 7539 of 2011 dated 20.11.2013, so also the judgment of this Court in Writ Petition No. 6437 of 2007 with other connected writ petitions dated 12.03.2008.

2. The learned Assistant Government Pleader submits that, the school is a primary school. The case of petitioner does not come within the ambit of 25% as is held by the Apex court in the case of **State Vs. Tukaram** reported in **2007 AIR SCW 1321**. In the light of that, the view taken by the authority is proper.

3. We have considered the submissions canvassed by learned counsel for respective parties.

4. The issue now is no longer *res-integra* in view of various judgments of this Court. The petitioner though possessing qualification of B. A. B. P. Ed. would not be entitled for the pay scale of a trained graduate teacher, unless he shows that, he come within that 25% as is held by the Apex Court in a case of **State Vs. Tukaram** referred supra. However, the petitioner can be considered for payment of trained teacher pay scale and not as a trained graduate teacher pay scale.

5. Considering the above, the impugned order is quashed and set aside. The respondents shall not deny the pay scale of trained teacher to the petitioner from the date of appointment till 6<sup>th</sup> June, 2004, on the ground that, on that date he did not possess D. Ed. qualification. If there is no other legal impediment, the petitioner would be entitled for the pay scale of trained primary teacher from the date of appointment till 6.6.2004. The writ petition accordingly is disposed of. No costs.

(SANGITRAO S. PATIL, J.)

(S.V.GANGAPURWALA, J.)



