

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

BENCH AT AURANGABAD.

WRIT PETITION NO.4526 OF 2016

Ganpat S/o Dasu Jadhav ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...
Mr.Ajay D.Pawar, advocate for the petitioner.
Mr.S.W.Munde, A.G.P. for the State.
Respondent No.5 served.
...

**CORAM : S.V.GANGAPURWALA AND
S.M.GAVHANE, JJ.**

Date : 05.12.2017.

PER COURT :

1. Mr.Pawar, learned counsel submits that the petitioner was appointed in the year 1986. On the date of appointment, the petitioner was possessing the qualification of B.P.Ed.. He was given the trained teachers pay-scale up to the year 2002. The petitioner acquired D.Ed. qualification in the year 2012. The petitioner is not given the benefit of the trained teachers pay-scale from 2002 to 2012. The petitioner is

entitled for the said pay-scale.

2. Learned A.G.P. submits that the School of the petitioner is a primary School. The case of the 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**. The authority has rightly decided the said aspect.

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 show 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 teachers pay scale and not as a trained graduate teachers 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 June 2002 to December 2012, 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 June 2002 to December 2012.

6. The Writ Petition is disposed of. No costs.

(S.M.GAVHANE, J.)

(S.V.GANGAPURWALA, J.)

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