

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

WRIT PETITION NO. 8681 OF 2014

Savita Laxman Bhole .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 3702 OF 2016**

Savita Laxman Bhole .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Avishkar S. Shelke, Advocate for the Petitioner in both matters.

Shri A. V. Deshmukh, A.G.P. for Respondent Nos. 1 and 2 in both matters.

Shri P. S. Paranjape, Advocate for Respondent Nos. 4 to 6 in both matters.

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

DATE : 12TH APRIL, 2017.

PER COURT :

. The Writ Petition No. 8681 of 2014 is filed seeking directions against respondents to comply clause 3 of the judgment and order dated 07.10.2013 passed by the Presiding

Officer, School Tribunal, Nashik in Contempt Petition No. 05 of 2011 and to deduct the backwages to be payable to the petitioner from the non salary grant. The Writ Petition No. 3702 of 2016 is filed by the petitioner seeking payment of regular salary with effect from 18.12.2013.

2. We have heard Mr. Shelke, the learned counsel for the petitioner, Mr. Paranjape, the learned counsel for the institution and the learned Assistant Government Pleader.

3. There is no dispute about the fact that, the petitioner was appointed as an Assistant Teacher with the respondent/institution. Subsequently the petitioner was terminated. The appeal filed by the petitioner before the School Tribunal was allowed. The writ petition and letter patents appeal filed by the institution came to be dismissed. As such order of reinstatement with backwages is confirmed upto this Court. The dispute between the parties appears to be that, there is no sanctioned post of grant in aid. The petitioner, it appears that, was appointed on non grant in aid post. The salary has to be reimbursed by the institution in respect of non salary grant. It is stated that, the petitioner has been reinstated in the year 2013.

4. It is submitted that, one post in D. Ed. pay scale has

become vacant in January 2016 on account of death of one of the employee. The petitioner would be accommodated by the institution on the said post on and from January 2016 on D. Ed. pay scale.

5. The learned Assistant Government Pleader has reservation for the same on the ground that, the petitioner was appointed on non grant in aid post and there are other surplus candidates to be absorbed.

6. It would be seen that, the petitioner is without salary. The order of the school tribunal is in favour of the petitioner and thereby reinstated in service. It is not the case that, the state is required to pay dual salary. Equities will have to be adjusted. The vacancy has occurred in the D. Ed. pay scale in January 2016 and petitioner can teach the students in the said category. Whenever, the B. Ed. post would become vacant, it would be appropriate for the institution to accommodate the petitioner in the B. Ed. scale.

7. As far as backwages are concerned, the Education Officer has filed an affidavit stating that, upto 2015-2016 an amount of Rs. 7,34,100/- has been deducted from non salary grant and paid to the petitioner and remaining amount would be paid as and when same is deducted. Said statement is accepted.

8. In the light of the above, we pass following order.

9. The petitioner is already reinstated in the year 2013. The respondent/institution shall accommodate the petitioner on the D. Ed. pay scale from January 2016 i. e. the date when the post became vacant. The institution shall submit the proposal to the Education Officer seeking approval to the appointment of the petitioner on the said post. The Education Officer shall not reject it on the ground that, there were surplus candidates to be accommodated. The institution will also submit the salary bill from January 2016 to the Education Officer, which shall be processed by the Education Officer.

10. As and when the post in B. Ed. scale would become vacant, the respondents would accommodate the petitioner in B. Ed. scale, as the petitioner possesses necessary qualification. We have passed this order to adjust the equities. The services from the date of dismissal till reinstatement and the respondents absorbing the petitioner shall be counted for the purpose of continuity in service and other consequential benefits. The writ petitions accordingly are disposed of with aforesaid observations. No costs.

[SANGITRAO S. PATIL, J.]

[S. V. GANGAPURWALA, J.]