

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1975 OF 2003

Miss. Hemlata Vasantryao Pawar
Adult, Occ. : Service,
R/at chawwl No.22/152,
Upvan Society, Shivainagar,
Pokharan Road No.1, Thane

...Petitioner.

Versus

1. Balvikas Vidyamandir (Primary)
through its Acting Principal,
Smt. Suchita Manohar Murkar

2. Panchshil Education Socieity,
Through its Secretary,
1 & 2 having their office at
Opp. Bldg. No.13, Vartak Nagar,
Thane

3. Education Officer,
Thane Municipal Corporation
Thane

4. State of Maharashtra ...Respondents

....

Mr. M.S. Lagu for the Petitioner.

Mr. P.R. Arjunwadkar a/w Mr. Omkar Nagvekar for Respondent
No.2.

Mr. N.C. Walimbe, AGP for Respondent No.4.

....

***CORAM : Smt. Vasanti A Naik &
Riyaz I. Chagla, JJ.***

DATE : 1st November, 2017.

ORAL JUDGMENT :

1. By this writ petition the petitioner had challenged the government circular dated 11.06.2002 as also the orders dated 03.08.2002 and 30.08.2002 asking the petitioner not to hold the post of the Head Mistress in view of the circular dated 11.06.2002 on the ground that the petitioner was not entitled to hold the post of primary teacher on the basis of B.Ed. Qualification. The petitioner had also sought a declaration that the petitioner was entitled to be promoted as a Head Mistress. Certain other ancillary prayers for seeking the salary applicable to the post of the Head Mistress etc. are also made

2. Mr. Lagu, the learned counsel for the petitioner states that the issue involved in this writ petition was also involved in several writ petitions and this Court, had by the judgment dated 06.05.2004, in a bunch of writ petitions bearing No.4632/1999 and others allowed the said writ petitions and had quashed and set aside the impugned circular. It is stated that this Court had in the said judgment held that it was permissible for the school having standards 1 to 7 to appoint one teacher with B.A/B.Sc. with B.Ed. qualification as a trained teacher. It is stated that the impugned orders in the decided writ petitions were quashed and set aside by the common judgment and this Court had directed the respondents to pay the salary of trained teachers to the petitioners from the date on which they were appointed with all consequential benefits. It is stated that though certain other prayers are also made in this writ petition, the grievance of the petitioner would be redressed if this Court directs the respondents to pay the salary of

a trained teacher to the petitioner, from the date on which she joined the services till the date of her retirement. It is stated that the grievance of the petitioner would be redressed if this Court directs the respondents to pay the salary as aforesaid, along with all consequential benefits.

3. On a reading of the judgment in the bunch of writ petitions, bearing No.4632/1999 and others, it appears that the question involved in those writ petitions is similar to the question involved in this writ petition. Since this Court had held by the common judgment rendered in the aforesaid bunch of writ petitions that the teachers who possess B.A./B.Sc. and B.Ed. qualification are duly qualified, it would be necessary to pass an order similar to the one passed by this Court in the common judgment, on parity. It would be necessary to do so as the common judgment of this Court in the aforesaid writ petitions has attained finality after the Special Leave Petition filed by the State Government against the said judgment was dismissed by the judgment reported in **(2007) 9 SCC 201**.

4. Hence, for the reasons recored in the judgment dated 06.05.2004 in the bunch of writ petitions bearing No.4632/1999 and others and the judgment reported in **(2007) 9 SCC 201**, this writ petition is partly allowed. On parity, we direct the respondents to pay the salary of a trained teacher to the petitioner from the date on which she was appointed along with the consequential benefits, or continues in service if not paid earlier. The arrears of salary in terms of this order should be paid to the

petitioner, if not paid earlier, within three months. Since the petitioner had not actually worked on the post of Head Mistress during the pendency of the writ petition, the petitioner would not be entitled to the salary applicable to the post of Head Mistress. The grievance of the petitioner pertaining to her entitlement to be promoted to the post of Head Mistress could be agitated by the petitioner, if so advised before the appropriate authorities.

Rule is made absolute in the aforesaid terms with no order as to costs.

(Riyaz I. Chagla J)

(Smt.Vasanti A Naik, J)