

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

WRIT PETITION NO.1340 OF 2014

Gregory Thomas Kordeiro

..Petitioner

Versus

**The Education Officer,
Zilla Parishad (Primary),
Kolhapur, Maharashtra and others**

..Respondents

Mr. C. K. Thomas i/by C. K. Thomas & Associates for the Petitioner.

Mr. R. D. Rane for the Respondent No.1.

Mrs. Rupali M. Shinde, AGP for the Respondent Nos.2 & 5.

Mr. S. S. Patwardhan i/by Mr. C. G. Patil for Respondent Nos.3 & 4.

**CORAM : B. R. GAVAI &
SANDEEP K. SHINDE, JJ.
DATE : 10th NOVEMBER, 2017**

PC.

1] Rule. Rule made returnable forthwith. Heard by consent.

2] The Petition arises out of peculiar facts and circumstances. The Petitioner was initially appointed as a teacher in Respondent No.4 school managed by Respondent No.3. In due course, the Petitioner came to be promoted as a Head Master. It appears that a crime came to be registered against the Petitioner for the offence punishable under Section 377 of the Indian Penal Code. On the basis of registration of the said

offence, the Petitioner was taken in police custody on 13th August 2003. The Petitioner's services came to be suspended on the ground that he was in police custody vide order dated 30th August 2003. However, it appears that on 7th August 2004, the Petitioner came to be acquitted by the learned JMFC, Gadhinglaj.

3] After the acquittal, it appears that the Petitioner made representation to the management for reinstating him. However, the Petitioner was not permitted to join. The Petitioner thereafter filed a civil suit in the Court of Civil Judge Junior Division, Gadhinglaj. However, the management objected there on the ground of jurisdiction. As such, the plaint came to be rejected. The Petitioner thereafter filed an Appeal before the learned School Tribunal. However, it appears that again the management took objection. As such, the said Appeal was also dismissed on the ground of jurisdiction. The Petitioner thereafter made various representations to the various authorities, however, they went unheard. As such, the Petitioner approached this Court by way of Writ Petition No.6018 of 2012. The Division Bench of this Court vide order dated 9th July 2012 directed the Education Officer to dispose of the representation made by the Petitioner after granting hearing to the management as well as the Petitioner.

4] By an order dated 15th April 2013 the Education Officer found that though the Petitioner was acquitted on 7th August 2004, the management has failed to reinstate him. He further held that the liability to pay the salary between the date on which the Petitioner was acquitted till the date of his superannuation i.e. 31st May 2010 would be on the management. Being aggrieved thereby, the management has filed Writ Petition No.4297 of 2015, whereas the present Petitioner has filed Writ Petition No.1340 of 2014 for implementation of the order passed by the Education Officer.

5] Taking into consideration the peculiar facts of the case, we had requested Mr. R. D. Rane the learned counsel for the Respondent No.1 to take instructions as to whether any other employee was appointed on the post occupied by the Petitioner. This was to find out as to whether the State would be required to bear an additional burden if the salary is to be paid from the State exchequer in as much as the school was in grant-in-aid basis.

6] Mr. R. D. Rane learned counsel appearing on behalf of the Education Officer states that after the suspension of the Petitioner till his superannuation, nobody has been appointed by the management on the post which was occupied by him.

7] Taking into consideration the peculiar facts between the parties hereinabove, we find that if the State is directed to pay the salary of the Petitioner, the State would not be burdened with an additional amount in as much as the post on which the Petitioner was working, no one was appointed after his suspension.

8] In the result, rule is made absolute in the following terms:-

- I) The order dated 15th April 2013 is modified.
- II) It is directed that the salary for the period between 8th August 2004 to 31st May 2010 shall be paid by the Respondent – Education Officer. The said amount is directed to be paid within a period of three months from today.
- III) The Respondent – Education Officer is further directed to pay all the terminal benefits to the Petitioner till he was superannuated on 31st May 2010 within a period of three months from today. The regular pension shall be paid to the Petitioner from the month of January 2018.

- IV) In the peculiar facts of the case, the Petitioner would not be entitled to any interest on the arrears. Rule is made absolute in the aforesaid terms, with no order as to costs.
- V) The management shall submit necessary papers for payment of arrears of salary, for payment of terminal benefits, so also for starting the pension to the Petitioner within a period of two weeks from today.
- VI) The Petitioner shall render necessary assistance to the management for the said purpose.
- VII) The Petitioner shall submit his original service book to the Respondent – Education Officer within a period of one week from today.

[SANDEEP K. SHINDE, J.]

[B. R. GAVAI, J.]