

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 2036 OF 2002

Dr. Javed Ahmad,
Principal R.A. Quidwayi High School
and Junior College, Ghotkala,
Chandrapur.

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PETITIONER

.. **Versus** ..

1. State of Maharashtra,
through its Secretary,
Education Department,
Mantralaya, Mumbai-32.
2. The Education Officer (Secondary),
Zilla Parishad, Chandrapur.
3. The Director of Education,
Maharashtra State, Central Bldg.
Pune.
4. R.A. Quidway Memorial Education
Society, through its Secretary,
Ghotkala, Chandrapur.
5. The Dy. Director of Education,
Nagpur Region, Old Morris College,
Nagpur.

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RESPONDENTS

Mr. Rohit Vaidya holding for Mr. Anand Parchure, Advocate for Petitioner.
Mr. Vinod Thakare, Addl. Govt. Pleader for Respondent Nos.1 to 3 & 5

**CORAM : R.K. DESHPANDE &
MANISH PITALE, JJ.**

DATED : September 7, 2017.

ORAL JUDGMENT (Per MANISH PITALE, J.)

By this writ petition the petitioner has prayed for grant of pay protection of Rs.2600/-, which he was drawing as a Lecturer in Junior College, before being appointed in the post of Headmaster/Principal in the school run by respondent No.4-society. It is the case of the petitioner that while he was working as a Lecturer in Junior College, he was drawing salary in the pay scale of Rs.2000/- to 3200/- with the basic pay of Rs.2600/-.

2. The petitioner resigned from the said post and he was selected and appointed as Headmaster/Principal in the school run by respondent No.4 society in the pay scale of Rs.2000/- to 3500/-. It is further submitted on behalf of petitioner that the earlier management, where the petitioner was working as a Lecturer in Junior College, had issued a last pay certificate to show the fact that he was drawing the said salary. It is further submitted that upon the appointment of petitioner as a Headmaster/Principal, respondent no.4 passed a resolution for protection of the pay of the petitioner.

3. Our attention has been drawn to the letter dated 25.04.1994 issued by the Education Officer (Secondary), Zila Parishad Chandrapur to the Deputy Director of Education, Nagpur Division, Nagpur, recommending the case of the petitioner for aforesaid pay protection. But, by the order dated 10.07.1996 as also order dated 06.01.1997 issued by the Senior Account Officer, Education Department, the pay protection to the petitioner has been denied. It is this action of the respondent that has been impugned by the petitioner in this writ petition.

4. While issuing notice on 04.07.2002, this Court had directed that no recovery should be made from the petitioner. On perusal of the impugned order, we find that no notice was issued to the petitioner and no hearing was granted to him, although the effect of the said order was clearly adverse to the benefits of the petitioner. Therefore, on this ground, we set aside the impugned order passed by the respondents.

5. We further remand the matter back to the Dy. Director of Education, Nagpur Division, Nagpur, for consideration of the grievance of the petitioner. The said

authority shall grant hearing to the petitioner and thereupon pass a reasoned order. The Dy. Director of Education shall decide the case of the petitioner within a period of three months from the date of service of copy of this order.

6. Accordingly, the writ petition is partly allowed with no order as to costs.

JUDGE

JUDGE

waghmare