

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

WRIT PETITION NO. 6545 OF 2014

**SHANKAR NAMDEO CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.S.R. Barlinge, Advocate for the petitioner.
Mr.A.V. Deshmukh, AGP for respondent/State.
Mr.G.V. Mohekar, Advocate for respondent No.4.

**CORAM : S.V.GANGAPURWALA &
S.M.GAVHANE, JJ.
DATED : 04.10.2018**

P.C. :-

1. We have heard Mr. Barlinge, learned Counsel for the petitioner, Mr. Deshmukh, learned AGP and Mr. Mohekar, learned Counsel for respondent No.4.

2. Mr.Barlinge, learned Counsel for the petitioner submits that the petitioner is working continuously with the respondent/institution from the year 1994 initially as untrained teacher till the year 2004. On 29.06.2004 the petitioner acquired qualification of B.Ed.

3. The management forwarded proposal for approval to the appointment of the petitioner on B.Ed. scale. The same was not considered. The petitioner had filed Writ Petition No.2710 of 2009. This Court under order dated 07.07.2011 passed an order directing the respondents to consider as to whether the petitioner can be treated as permanent trained graduate teacher from 29th June, 2004 to 30th April, 2007. This Court directed the Special District Social Welfare Officer to bear in mind the decision of the Supreme Court in the case of **State of Maharashtra and others Vs. Tukaram Tryambak Chaudhari and others, reported in 2007 AIR SCW 1321**. Thereafter, the order came to be passed by the Assistant Commissioner, Social Welfare to grant pay scale of a trained graduate teacher for the years 2009-2010, 2010-2011. The same is also paid. According to Mr.Barlinge, learned Counsel, the petitioner is not paid the salary of a trained graduate teacher for the year from 29.06.2004 to 30.04.2007 and after the year 2011 the respondents have not paid any amount to the petitioner. According to the learned

Counsel, the petitioner is the only candidate who fulfills the criteria for the post of trained graduate teacher and he is also appointed and permanency has been granted to him by the management. Resolution also to that effect is passed on 01.06.2009.

4. Mr. Mohekar, learned Counsel supports the arguments of learned Counsel for the petitioner and submits that the petitioner is the only Assistant Teacher fulfilling the criteria of a trained graduate teacher.

5. Mr.Deshmukh, learned AGP submits that the petitioner's services were not permanently approved. As services of the petitioner were not permanently approved, his claim has not been considered. The authority would consider claim of the petitioner if the management forwards the proposal.

6. Even according to the respondent/State there are seven admissible posts and one post is meant for a

trained graduate teacher.

7. Mr.Deshmukh, learned AGP, on instructions, from the I/c. Assistant Commissioner, Social Welfare Office, Beed accepts that the petitioner is the only person having B.A.B.Ed. qualification. There are seven admissible posts. The school is from 1st to 7th standard. 25% posts are admissible for Asstt. Teachers possessing B.A. B.Ed. Qualification. As the petitioner is the only Assistant Teacher possessing B.A. B.Ed. qualification, certainly, he will be entitled to be considered as trained graduate teacher. There would be no impediment for the respondent authority to grant permanent approval to the petitioner as trained graduate teacher. The temporary approval is already granted to the petitioner. The proposal was also submitted by the management.

8. In the light of above, the respondent authority shall grant permanent approval to the petitioner as a trained graduate teacher. Such exercise shall be done

within a period of six weeks from today. Upon grant of permanent approval as trained graduate teacher, the respondents shall consider the case of the petitioner for payment of salary as admissible expeditiously, preferably within six weeks thereafter.

9. The writ petition is allowed in above terms. No costs.

[S . M . GAVHANE , J .]

[S . V . GANGAPURWALA , J .]