

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2661 OF 2015

Pravin Tukaram Patil

..**Petitioner**

Versus

The State of Maharashtra and others .. **Respondents**

Mr. Prakash S. Paranjape, Advocate for the Petitioner.

Mr. S. B. Joshi, A.G.P. for Respondent Nos. 1 to 3.

Mr. V. D. Sapkal, Advocate for Respondent Nos. 4 to 7.

CORAM: S. V. GANGAPURWALA &
R. G. AVACHAT, JJ.

DATE: 21st November, 2018

PER COURT :

1. Mr. Paranjape, the learned counsel submits that the petitioner was appointed way back in the year - 2005. He was not paid the salary since the year - 2005 to 2015. The petitioner has rendered service for all these years. The respondent - employer, be directed to pay the salary to the petitioner for the period the petitioner has worked.

2. Mr. Sapkal, the learned counsel submits that the petitioner had filed Writ Petition No. 8392 of 2013. The said writ petition is dismissed by this Court under order dated 29.01.2014, holding that the management has disputed the appointment of the petitioner as far as the services rendered by him in the capacity of the teacher. The learned counsel submits that the petitioner now cannot raise the claim for non payment of salary when in the earlier writ petition he has not claimed it. The petitioner also has an alternate remedy available, as was observed by this Court in order dated 29.01.2014 in Writ Petition No. 8392 of 2013.

3. It appears to be case of disputed questions of fact. The petitioner had earlier filed Writ Petition No. 8392 of 2013. This Court while dismissing the writ petition on 29.01.2014 observed thus -

“ Admittedly there is no letter of appointment in favour of the petitioner. Respondents have raised dispute in respect

of appointment of the petitioner and services rendered by him in his capacity as a teacher.

In view of the decision of the Full Bench in the matter of Ramkrishna Chauhan & others Vs. Seth D. M. High School & others, reported in 2013 (2) Bom. C. R. 481, grievance raised by the petitioner, in the petition, does not deserve consideration. However, petitioner shall have an option to avail of remedies available in law.

Writ Petition, as such, stands dismissed."

4. As there is a dispute with regard to the factual matrix, it would not be appropriate for us to invoke the writ jurisdiction. It is submitted that the petitioner is getting the salary after the year – 2015.

5. The petitioner may approach the Civil Court. The petitioner may plead about benefit of Section 14 of the Limitation Act, 1963.

6. With these observations, the writ petition is disposed of. No costs.

[R. G. AVACHAT, J.] [S. V. GANGAPURWALA, J.]
marathe