

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

WRIT PETITION NO.8383 OF 2016

Shanta Sitaram Bhatlawande ..Petitioner

Vs.

The State of Maharashtra
and ors ..Respondents

Mr.A.V.Indrale-Patil, Advocate for petitioner

Mr.S.P.Tiwari, AGP for respondent nos.1 to 3

Mr.C.V.Dharurkar, Advocate for respondent no.4

**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATE : DECEMBER 18, 2018

PER COURT

The petitioner seeks direction against the respondents to pay the arrears of salary for the post of Headmistress since 2006 and to allow her to work as Headmistress in respondent no.5 – School.

2. During the pendency of the Writ Petition, approval has been granted to the appointment of the petitioner with effect from 01.03.2006 with a rider

that the difference of salary from 01.03.2006 till 18.03.2018, shall be borne by the Institution.

3. Mr.Patil, learned Counsel for the petitioner, submits that upto 30.01.2010, one Mrs.Kiran Chandrakant Patil was officiating as Headmistress and upon her reversion since 01.02.2010, no full-fledged Headmistress was appointed. He submits that the petitioner has been approved as Headmistress. She was entitled for salary as Headmistress from 01.02.2010 and the management is liable to bear the salary.

4. According to Mr.Dharurkar, learned Counsel for respondent no.4 - Institution, the State is liable to pay the salary, at least since 01.02.2010, as the salary for the post of Headmistress of the school was not paid by the State. He submits that the respondent - Institution has deposited the amount of Rs.Three Lakhs in this Court as per the order passed by this Court.

5. The learned AGP for respondent nos.1 to 3 – State submits that the petitioner was not officiating as Headmistress till 18.03.2018. As such, the State is not liable to pay the salary of officiating Headmistress, to the petitioner.

6. It is not disputed that the petitioner has been paid salary of Assistant Teacher for all these years. The dispute is about difference of the amount of salary for the post of Headmistress and Assistant Teacher. There is no dispute that since 01.02.2010, the State has not paid salary for the post of Headmistress of respondent/Institution. The appeal filed by the petitioner has been allowed by the School Tribunal, holding that the petitioner was entitled to be appointed as Headmistress since 01.06.2006. However, the State also may not be saddled with the liability to pay the salary for the post of Headmistress from 01.03.2006 to 30.01.2010.

7. In view of the above, in our view, the following order would meet the ends of justice :-

8. The respondents/State shall pay the salary admissible to the post of Headmistress to the petitioner from 01.02.2010 till 18.03.2018, after adjusting the amount of salary already paid to the petitioner for the post of Assistant Teacher. The respondent - Management has already deposited Rs.Three Lakhs in this Court. The same shall satisfy the claim of the petitioner for arrears of salary from 01.06.2006 to 30.01.2010.

9. The Management shall submit the salary bills of the petitioner for the post of Headmistress from 01.02.2010 till 18.03.2018, after adjusting the amount already paid to the petitioner for the post of Assistant Teacher. The said proposal shall be decided expeditiously and preferably, within the period of six months from today.

10. Considering the explanation given by respondent no.4, the notice of contempt issued vide order of this Court dated 27.08.2018, is recalled.

11. The Writ Petition is accordingly disposed of. No costs.

[R.G. AVACHAT, J.]

[S.V. GANGAPURWALA, J.]

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