

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

WRIT PETITION NO. 3567 OF 2013

S. G. S. Mansuri and others .. Petitioners
Versus
The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 8344 OF 2009**

Kakeshwar Vidya Prasarak Sanstha .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri. U. R. Awate, Advocate for Petitioner.

Shri. U. B. Bondar, Advocate for Petitioner in W. P. No. 8344/2009.

Shri. N. T. Bhagat, A.G.P. for Respondent/State.

**CORAM : S.V. GANGAPURWALA AND
S. M. GAVHANE, JJ.**

DATED : 27th August, 2018

ORAL JUDGMENT :

1. Rule. Rule returnable forthwith. With the consent of learned counsel for respective parties taken up for final hearing.

2. Mr. Bondar and Mr. Auti, the learned counsel for the respective writ petitioners submit that initially the Respondent No. 5 was running the school at Newade, Tal. Sindkheda Dist. Dhule. In the year 2002 permission was granted to transfer the said school to Zunawane. The petitioners in Writ Petition No. 3567/2013 were appointed in the year 1995-1996 onwards and they joined the school at Newade. Subsequently were transferred to Zunawane. The transfers were with the permission of the Education Officer under orders dated 29.07.2005 and 22.08.2006. The learned counsel submits that the appointment of the petitioners in Writ Petition No. 3567/2013 is approved by the Education Officer from the initial date of appointment, however, the salary is directed to be paid from the date of approval. Only ground which is stated in the report is that the petitioners were transferred without permission to the school at Zunawane. The school at Zunawane was also on 100% grant in aid at the relevant time and the school at Newade was receiving the 20% grants in the year 1996-1997 and in the year 1999-2000 it received 100% grant in

aid.

3. The learned Assistant Government Pleader submits that the management made some illegal appointments. The transfers of the employees was without the permission of the Education Officer. Considering all these, though the order of approval is granted from the initial date of appointment the salary is directed to be paid from the date of approval.

4. The appointment of the petitioners in Writ Petition No. 3567/2013 is approved under the orders of the Education Officer dated 29.01.2005. The order of approval relates back to the date of their respective appointments. However, under Note - II it is directed that the salary grants would be admissible from the year 2004-2005.

5. It is submitted that the transfers are without the permission of the

Education Officer. The orders dated 29.07.2005 and 22.08.2006 of the Education Officer states that those persons who were transferred their salary should be paid.

6. It also appears that the school where the petitioners were transferred were receiving 100% grant in aid and the school at Newade started receiving 100% grant in aid from the year 1999 – 2000. The respondent – State would be liable to pay the salary to the petitioners in proportion to the grants. Though the affidavit states that the management has made some erroneous appointments, the affidavit nowhere discloses the details of those persons who were erroneously appointed or how their appointment was improper. The affidavit is silent in respect of the said details. If the appointment of these petitioners in Writ Petition No. 3567/2013 was improper, then the approval would have been refused to their appointments. However, the Education Officer after considering all the facts has granted approval to their appointments since

the initial date.

7. The management had filed the writ petition in the year 2009 itself for non grant of salary since the earlier date.

8. It is the fact that the school at Newade was not on 100% grant in aid in the year 1996-1997, as such, the respondents can not be directed to pay petitioners full salary from the year 1996. The same would be commensurate to the grants on which the institution was brought.

9. In the light of above, we pass following order.

10. The Respondent No. 5 shall submit the salary bills of the petitioners from the year 1996 – 2004. The same shall be approved by the Education Officer and the salary be paid commensurate to the grants to which the posts were entitled to at the relevant time. The same shall be done within

a period of three (3) months from the date of receipt of the proposals.

11. Rule accordingly disposed of. No costs.

12. In view of the disposal of the writ petition, civil application is also stands disposed of.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

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