

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

WRIT PETITION NO. 295 OF 2018

- 1] Almasmiya S/o Asefmiya Fakir
Age 31 yrs, Occu. Service
At present Nil,
R/o Gautam Nagar, Walwadi
Dhule, Tq. & Dist. Dhule
- 2] Rashtramata Jijau Sevakhavi Sanstha
Gautam Nagar, Walwadi, Dhule
Tq. & Dist. Dhule
Through its President
Sanjay Bhavan Bhamre
Age 38 years, Occ : Service
R/o Gautam Nagar, Gondur Road,
Dhule, Tq. & Dist. Dhule
- 3] Subhash Tanaji Vasave
Age 42 years, Occ – Headmaster
Bhagai Prathamik Vidyamandir
Gondur Road, Walwadi-Dhule
Tq. and Dist. Dhule
R/o 48-Deomogra Colony,
Wadel Road, Walwadi-Dhule
Tq. & Dist. Dhule. .. PETITIONERS

Versus

- 1] The State of Maharashtra
Through its Secretary,
School Education and Sports
Department, Mantralaya
Mumbai-32
- 2] The Director of Education
Maharashtra State, Pune

3] The Deputy Director of Education
Nashik Region, Nashik

4] The Education Officer
Zilla Parishad (Primary)
Dhule, Tq. & Dist.Dhule.

.. RESPONDENTS

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Shri G.R.Syed, Advocate for petitioners

Shri S.B.Yawalkar, AGP for respondents No.1 to 3

Shri R.S.Pawar, Advocate for respondent No.4.

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CORAM : R.M.BORDE &

MANGESH S. PATIL, JJ.

DATE : 23/10/2018

ORAL JUDGMENT [PER R.M.BORDE, J.] :-

Rule. Rule is made returnable forthwith. With the consent of parties, Petition is taken up for final decision at admission stage.

2] The petitioner is objecting to the order passed by the Education Officer (Primary) Zilla parishad, Dhule on 25/9/2017 directing recovery of amount of Rs.4,32,212/- from the petitioner. It is recorded in the order impugned in this petition that the petitioner was appointed as Assistant Teacher on 15/6/2011 and the then Education Officer has accorded approval to the appointment of the petitioner. The petitioner was paid wages for the period commencing from 15/6/2011 onwards. However, according to the Education Officer, since

there was no sanction accorded to the 10th post filled in by the Education institution, the amount paid towards salary of such employee i.e. petitioner is liable to be recovered.

3] The petitioner contends that in fact the Education Officer has accorded approval to the appointment of the petitioner on 15/6/2011 and the employee / petitioner has also been accorded status of the confirmed employee. It has not been substantiated that the petitioner has been appointed against the 10th post of the Assistant Teacher and that the aforesaid 10th post in the Education institution has not been approved by the State Government. Since appointment of the petitioner has been approved by the Education Officer and not only that the petitioner has been granted status of confirmed employee, and that the order according approval to the appointment of petitioner has not yet been revoked, it was impermissible for the Education Officer to direct recovery of salary paid to the petitioner, from 2011 onwards.

4] The order passed by the Education Officer on 25/9/2017 is without application of mind to the record of the case and as such the same deserves to be quashed and set aside and the same is quashed and set aside. Rule is accordingly made absolute. There shall be no order as to costs.

(MANGESH S. PATIL,J.) (R.M.BORDE,J.)

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