

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 1248 OF 2019

Shri Satish S/o Sitaram Tayde

Petitioner

Versus

The State of Maharashtra
& others

Respondents

Mr. S.P. Rathod, advocate for petitioner.

Mrs. A.V. Gondhalekar, AGP for respondents no. 1 to 6.

Mr. D.A. Madke, advocate for respondent no. 7.

**CORAM : PRASANNA B. VARALE AND
NITIN W. SAMBRE, JJ.**

DATE : 2nd April, 2019.

P.C. :

Heard learned counsel for the respective parties.

2. Petitioner is before this Court challenging the order passed by the Education Officer (Secondary), Zilla Parishad, Jalgaon, dated 02.01.2019, whereby the proposal for reimbursement of expenses to the tune of Rs. 91,502.98 against medical bills for the treatment of the son of petitioner was rejected.

3. The facts which are not in dispute are :

Petitioner is working as Assistant Teacher in Municipal High School and Junior College, Faijpur, Tq. Yaval, Dist. Jalgaon. Petitioner was appointed on 11.02.1986 and the copy of order of appointment is also placed on record. The minor son of petitioner was ailing and was subjected to medical treatment at Nasik Hospital, Nasik as an indoor patient. Petitioner had to incur an

amount of Rs. 91,502.98 for the medical treatment. Accordingly, petitioner submitted proposal for reimbursement of medical expenses and the Incharge Head Master of Municipal High School and Junior College, Faijpur forwarded the proposal to the Education Officer (Secondary), Jalgaon, with his recommendation for grant of approval which came to be rejected by the Education Officer (Secondary), Jalgaon, vide order dated 02.01.2019.

4. Learned counsel for the petitioner submits that the rejection order passed by the Education Officer is unsustainable on more than one grounds. Learned counsel for the petitioner has invited our attention to Government Resolution dated 09.02.2014 to submit that there is a positive change in the Government policy and certain guidelines are issued for considering the proposals for medical reimbursement. Learned counsel for the petitioner submits that rejection of proposal by the Education Officer at the instance of earlier Government Resolution is clearly unsustainable. Learned counsel for petitioner has invited our attention to the judgment and order passed by the Division Bench of this Court in Writ Petition No. 3193/2013 in the matter of Kishor S/o Tukaram Talele Vs. The State of Maharashtra and others. Our attention was also invited to the judgment and order passed by Division Bench of this Court in Writ Petition No. 10369/2015 in the matter of Ramnath Ganpat Umbarkar Vs. The State of Maharashtra and others so also judgment and order 30.08.2016 passed by Division Bench at Nagpur in Writ Petition No. 162/2016 in the matter of Suresh Mahadeorao Ahio and others Vs. State of Maharashtra and others. It will not be out of place to refer to the judgment and order dated 22.01.2016 passed by this Court in Writ Petition no.

3193/2013, more particularly, paragraph no. 8 of the judgment which reads thus :

8. In view of the fact that, the respondents have extended benefit of medical reimbursement to the similarly situated Shri Umbarkar and Smt. Vidya Mahajan, the same could not have been denied to the petitioner. Moreover, from the averments in the introduction part of the Government Resolution dated 20.02.2009, it is quite clear that, vide order dated 05.05.2005 passed by the Government, the medical reimbursement has been made applicable to the teachers working in the Primary, Secondary and Higher Secondary Schools run by the Municipal Councils and Municipal Corporations in the State. As per the Government Resolution dated 02.02.2009, power to sanction the medical reimbursement up to the extent of Rs.40,000/- claimed by the teachers working in the schools run by the Municipal Councils as Municipal Corporations is vested in the Administrative Officer of the said Municipal Council or Municipal Corporation, as the case may be.

5. On perusal of the material placed on record, we find considerable merit in the submission of learned counsel for the petitioner.

6. In view of above, the petition is partly allowed. Order impugned in the petition is quashed and set aside. The Education Officer is directed to consider the proposal of grant of medical reimbursement on the lines of decisions taken by the State Government in the matter of Shri Umbarkar and Smt. Vidya Mahajan within eight weeks from the date of receipt of order of this Court and if, the petitioner is found entitled for such

reimbursement, the amount to which the petitioner may be found entitled be disbursed to him within further period of eight months.

7. Petition is accordingly disposed of with above directions.

NITIN W. SAMBRE
JUDGE

PRASANNA B. VARALE
JUDGE

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