

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

**CONTEMPT PETITION NO.341 OF 2018
IN
WRIT PETITION NO.11178 OF 2015**

Shivaji s/o Bhivaji Sasane,
Age: 35 years, Occ: Service,
R/o. Shivaji Nagar, Beed,
Tal. & District Beed

PETITIONER

VERSUS

Vaijinath Khandekar
Age:55 years, Occ: Service,
R/o. Deputy Director of Education
Aurangabad Division, Aurangabad

RESPONDENT

Mr Amol R. Gaikwad, Advocate for the petitioner;
Mr S.G. Sangle, A.G.P. for respondent sole

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.**

DATED : 26th NOVEMBER, 2019

ORAL ORDER:

Heard learned Counsel appearing for the
petitioner.

2. On a grievance that the order of this Court dated 17th November, 2016 is not complied with, present contempt petition is filed. By order dated 17th November, the Division Bench of this Court directed the Deputy Director of Education to decide the claim of the petitioner for grant of pay scale to petitioner No.1 from the year 2006-2007 within stipulated period. On issuance of notice to respondent No.3, learned A.G.P. placed on record the communication dated 31st July, 2018 to submit before this Court that the Deputy Director of Education took a decision in favour of petitioner No.2 on 9th November, 2017 and same is subjected to guidance from the Director of Education and as soon as the guidance is received, necessary orders would be issued. As the learned A.G.P. sought time to submit developments in the matter post communication dated 31st July, 2018, the matter was adjourned. On 25th June, 2019 attention of the Court was invited to two orders passed by the two officers occupying the position as Deputy Director of Education.

3. Considering anomalous situation, by order dated 25th June, 2019 the Division Bench of this Court was pleased to call upon the Secretary of School Education and Higher Education to file affidavit in reply explaining the anomaly of two decisions. Learned A.G.P. invited our attention to the affidavit in reply filed on behalf of Additional Chief Secretary Smt. Vandana Krishna. The perusal of the affidavit in reply show that plausible explanation is provided and more particularly, it is reflected in paragraphs-3 and 4 thereof. It is also brought to the notice of this Court that earlier decision of Mr. Ramchandra Jadhav, who was holding additional charge of Deputy Director was without considering record in its proper perspective. It is then submitted before this Court that Mr. Vaijinath Khandake, who resumed his original charge as regular Deputy Director of Education, on noticing decision of Mr. Ramchandra Jadhav sought guidance from the office of respondent No.1.

4. Considering the entire record and more particularly, the fact that staff approval for the year 2009-2010 was issued on 18th March, 2010 and it was shown that the post on which the petitioner was appointed was not in existence on 11th June, 2009. As such, there was no reason to grant benefit of pay scale from the year 2009-2010 to the petitioner. Resultantly, the claim of the petitioner was rejected.

5. Considering these facts, we are of the opinion that the order passed by the Division Bench of this Court in Writ Petition No.11178 of 2018 on 17th November, 2016 is now duly complied with. A decision is taken. In case, the petitioner is having any grievance of a decision rejecting the claim of the petitioner, he is at liberty to raise a challenge to the decision by availing appropriate legal remedies.

6. With these observations, the contempt petition is disposed of.

[ANIL S. KILOR, J.]

[PRASANNA B. VARALE, J.]