

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION STAMP NO. 15340 OF 2018
WITH
CIVIL APPLICATION NO. 8117 OF 2018

SYEDA RUBEENA QUADRI SYED ATAULLAH QUADRI
VERSUS
CRESCENT EDUCATION SOCIETY AURANGABAD AND OTHERS

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Advocate for Applicant : Mr. S S Kazi
Advocate for Respondent No. 2 :
Mr. S. C. Yeramwar h/f. Mr. E. G. Irale
AGP for Respondents No. 3 & 6 :
Mrs. V. N. Patil Jadhav
Advocate for Respondent No. 5 : Mr. P. R. Nangare

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CORAM: S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.

DATE: 08th MARCH, 2019

PER COURT :

1. The review application is filed along with the civil application for condonation of delay of about 9 years 239 days in filing the review.

2. Mr. Kazi, learned counsel for the review applicant submits that the applicant was prosecuting all these years by filing various

proceedings and even writ petitions are filed before this court bearing nos. 9298 of 2015 and 5105 of 2009. Subsequently, review applications were filed in the said writ petitions. The learned counsel submits that the earlier writ petitions no. 5105 of 2009 and 9298 of 2015, so also, the review applications therein were dismissed on the basis of the order dated 13.10.2011 in Writ Petition No. 4420 of 2009. The learned counsel submits that the applicant / petitioner was appointed in the year - 2000. The division which was sanctioned by the year - 2000, as per the relevant Government Resolution in the 5th year the division is to be brought on 25% grant in aid i.e. in the year 2005. The applicant / petitioner was declared surplus on 14.07.2005. On that date, the division on which the applicant / petitioner was appointed would receive 25% grant in aid. In view of that, the applicant / petitioner is required to be absorbed on the grant in aid post. The applicant / petitioner was on a grant in aid post

can be vouched by the letter of the Education Officer (Primary), Zilla Parishad, Aurangabad wherein the name of the applicant/ petitioner as an Assistant Teacher on grant in aid was at serial no. 12. According to the learned counsel, the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (*hereinafter referred to 'MEPS Rules'*), more particularly, Rule 10 of the MEPS Rules recognises only two classes of employees, temporary and permanent. The applicant / petitioner was permanent employee having been appointed in the year - 2000. Rule 26 of the MEPS Rules enures to the benefit of the applicant / petitioner. As per Sub-Rule 2(iii) of Rule 26 and Sub-rule 9 of Rule 26 of the MEPS Rules the applicant / petitioner is required to be absorbed on grant in aid post. This Court while disposing of writ petition no. 1872 of 2008 under order dated 08.09.2008 did not consider that the applicant / petitioner was already brought on grant in aid post. As such, the directions were

issued to absorb the applicant / petitioner on non grant in aid post. The learned counsel submits that the applicant / petitioner be directed to be absorbed on grant in aid post.

3. The learned counsel for the respondents submits that way back on 06.06.2006 letter was issued by the Education Officer (Primary) to the effect that the applicant / petitioner is working on a non grant post and her absorption be made accordingly and till that time she should be paid the salary. The Writ Petition No. 1872 of 2008 filed by the applicant / petitioner was based on the said letter only. According to the learned counsel for the respondents, the additional division on which the applicant / petitioner was appointed never received grant in aid. The respondent society filed writ petition bearing no. 4420 of 2009 before this Court. The writ petition came to be dismissed under order dated 13.10.2011.

4. There is no dispute amongst the parties that the applicant / petitioner was appointed in the year - 2000 on non grant in aid division. The case of the applicant / petitioner is based on the assumption that after five years the said division would start receiving 25% grant in aid referring to Government Resolution dated 08.11.2000 and Government Resolution dated 20.07.2009.

5. It is not as a matter of course after lapse of five years the division would start getting 20% or 25% grant in aid, the same is subject to the terms and conditions to be fulfilled by the institution. The Government Resolution dated 08.11.2000, more particularly Clause 3 (i) therein provides that the school shall fulfill the conditions of recognition and the grant before the grant being sanctioned. The institution did not fulfill the said conditions, as such, the grant was not disbursed. The institution filed writ petition bearing no. 4420 of 2009 for the sanction of grants from the year 2004 – 2005. The said writ

petition is dismissed by the Court under order dated 13.10.2011. In the said writ petition, the present review applicant was respondent no. 4. The said order has become final and certainly would bind the parties. It is suggested that the review application filed against the said order by the present applicant is also dismissed.

6. Be that as it may, there is nothing on record to even remotely suggest that the division on which the applicant / petitioner was working and same was closed down in the year - 2005 was at any point of time receiving grants. In absence there of it cannot be concluded that the applicant / petitioner was appointed on grant in aid post. This Court while disposing the writ petition filed by the petitioner bearing writ petition no. 1872 of 2008 has considered the relevant aspects.

7. In view of that, no case for review is made out. As we don't find merit in the review, we are not inclined to consider the inordinate delay of 9

years 239 days. The civil application for delay in filing Review Application and the Review Application stand dismissed.

[A. M. DHAVAL, J.] [S. V. GANGAPURWALA, J.]

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