

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

901 CONT. PETITION NO.820 OF 2018
IN WP/7388/2016

ASHOK APASAHEB GODBOLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. B.A. Chavan & Mr. N.R.
Thorat

AGP for Respondents No. 1 to 4 : Mr.K.S. Patil
Advocate for Respondents No 5 & 6 : Mr.P.B. Patil, Mr.
G.K. Kshirsagar and Mr. Vaibhav Deshmukh

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**CORAM : PRASANNA B. VARALE AND
AVINASH G.GHAROTE, JJ.**

DATED : 26th SEPTEMBER, 2019.

ORAL ORDER :

We had heard the learned Counsel for the petitioners at length yesterday. At the request of the learned Counsel for the petitioners, the matter was posted today as the first matter on board.

2. The petitioners are approaching this Court by way of the present Contempt Petition with an allegation that the orders of this Court dated 6.2.2018 and 20.2.2018 in Writ Petition No. 7388 of 2016, are not complied with. It is pertinent to point out that there

are as many as 299 petitioners before this Court in Writ Petition No. 7388 of 2016. The common grievance of these petitioners was against the communication/order issued by the Chief Executive Officer, Zilla Parishad, Jalna dated 29.6.2016. For our purpose, we are referring to this communication. This Communication was issued by the Chief Executive Officer, Zilla Parishad, Jalna, to the Block Education Officer of Panchyat Samiti under the Zilla Parishad, Jalna. By this communication, the Block Education Officers were directed to take steps for recovery of the amount paid to the trained graduate teachers and primary teachers giving rise in their pay scales. The Division Bench of this Court in order dated 20.02.2018 in clear words observed that the impugned order dated 29.6.2016 is quashed and set aside on the ground of non adherence of principles of natural justice and not on any other ground. The Division Bench of this Court further made it clear that though the petition is allowed, the same shall

not be construed as impediment to the third respondent from passing appropriate orders on merits.

(Emphasis supplied)

3. In spite of our repeated queries to the learned Counsel to show what prompted these petitioners to file the present petition on the premise of non compliance of the order, the learned counsel for the petitioners was only inviting our attention to certain orders which were passed prior to 29.6.2016. Another submission advanced by the learned counsel for the petitioners was that the respondent Zilla Parishad, Jalna, is now reducing the pay scales of the petitioners and their submission was that the respondent, Zilla Parishad, is not considering the representations of the petitioners.

4. On the backdrop of these submissions, we have called upon the learned counsel Mr. Patil, appearing for respondent Zilla Parishad, to advance

his submissions. Mr. Patil, learned counsel appearing for Zilla Parishad, in his detailed submission invited our attention to the affidavit-in-reply and more particularly the documents placed on record. It is the submission of Mr. Patil, learned counsel appearing for Zilla Parishad, that it is only an erroneous presumption of these petitioners that there is no compliance of the order of this Court, whereas respondent Zilla Parishad on more than one occasion, provided opportunity of hearing to the petitioners.

5. Our attention was invited to the communication dated 3.7.2019 placed on record of Writ Petition at 'Exh.P-2'. Perusal of this communication shows that all Block Education Officers have been informed about the list of eligible Teachers for grant of Graduate Teachers Pay Scale according to Seniority, is prepared by the department in accordance with the Government Resolution dated 13.10.2016. It is stated in the communication that

the objections, suggestions be lodged before the authority, within 15 days from the publication of the list. The communication concludes with a statement that if no objections and suggestions are received within the stipulated period, the list would be finalized.

6. The list annexed to these documents clearly show that it may not be out of place to state that in the communication dated 3.7.2019, all Block Education Officers, Zilla Parishad, Jalna, were specifically cautioned with a statement that the list prepared be brought to the notice of all concerned. Perusal of the list shows that the names of the petitioners appearing in the list and for example, we may refer to two petitioners who are enlisted, they are petitioner No. 11, Mr.Dargude Ritesh Jairam who find place at Sr. No. 47 in the list, whereas petitioner No. 13 Gudde Dnyanesh Arjun finds place at Sr. No.40 in the list. The list placed on record includes 432

graduate teachers. Mr. Patil submits that apart from this list, there were two other lists and in all these lists the total number of teachers is 953.

7. Our attention has been invited to another communication dated 22.7.2019 whereby one more opportunity was granted to the graduate teachers to submit their objection, suggestions on 24.7.2019 at 11.00 a.m. in the office of Zilla Parishad, Jalna. This communication then states that the Objectors may attend the hearing along with all requisite material referred. In communication dated 3.7.02019 there is reference of the order of this Court and the reiteration of the fact that the hearing is scheduled on 24.7.2019 at 11.00 a.m.

8. Mr. Patil, learned counsel for respondent Nos. 5 and 6 submits that the earlier hearing was scheduled on 24.7.2019. The communication dated 13.7.2019 shows that the hearing was scheduled on

24.4.2017 and in the hearing in all 158 graduate teachers were found eligible and after considering the objections, necessary orders were issued. The communication dated 3.7.2019 states that the hearing is scheduled on 5.8.2019 at 11.00 a.m. in Yashwantrao Chavan Meeting Hall, Zilla Parishad, Jalna of those petitioners who have filed the Contempt Petitions in this Court. It is further stated that the petitioners are to attend the hearing and submit their written submissions and it has been cautioned that in case the petitioners fail to attend, the Administration may take final decision. Now page 180 placed on record, shows that the majority of the petitioners refused to accept the notice.

9. On the backdrop of these facts, we see no reason to entertain the petition as the petition is devoid of merit. Apart from this, we may add one more feature that in the entire Contempt Petition, there

is not a single statement which was submitted before this Court that in spite of the direction by this Court to the authorities to afford opportunity of hearing, no opportunity of hearing was granted to the petitioners and as such the petitioners are approaching to this Court on submission of non compliance of order of this Court. By any angle, the only conclusion which we could draw that this meritless petition is filed in this Court on an ill-founded impression, and on a false presumption of the petitioners. Thus, the petition is devoid of merit is accordingly dismissed.

10. No costs.

(AVINASH G. GHAROTE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

mahajan/