

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

WRIT PETITION NO. 10378 OF 2016

Jahedkhan Sahebkhani Pathan
and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri U. R. Awate, Advocate i/by Talekar and Associates,
Advocate for Petitioners.
Shri S. K. Tambe, A.G.P. for Respondent Nos. 1 and 2.
Shri A. R Vaidya, Advocate for Respondent Nos. 3 and 4.

**WITH
WRIT PETITION NO. 3648 OF 2018**

Manjushri Ganpatrao Rathod
and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri S. P. Salgar, Advocate h/f Shri Niteen V. Gaware, Advocate
for Petitioners.
Shri S. K. Tambe, A.G.P. for Respondent Nos. 1 and 2.
Shri A. R Vaidya, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVALA, JJ.**

DATE : 08TH APRIL, 2019.

FINAL ORDER :

. The petitioners seek regularization of service as Assistant Teachers retrospectively, so also seeking payment of salary as per the pay scale prescribed.

2. According to the learned counsel for petitioners, the petitioners were appointed by following due selection process. An advertisement was issued, interviews were conducted and thereafter petitioners were appointed. Though the petitioners are appointed on clock hour basis, they are performing job of regular employees. Therefore, the petitioners are entitled for regularization. The learned counsel rely on the judgment of the Apex Court in a case of State of Punjab Vs. Jagjeet Singh reported in (2017) 1 SCC 148. The learned counsel further submit that, the resolution is also passed by the Municipal Corporation to the effect to regularize the services of the teachers like the petitioners.

3. According to Mr. Vaidya, the learned counsel for the respondent Nos. 3 and 4, the petitioners are working on clock hour basis and not as regular employees. Nevertheless, the status of the petitioners is clock hour teachers appointed on contract basis. The permission was granted to run the school on unaided basis. A proposal is submitted to the Government to rescind the services of petitioners. A resolution is also passed in

this regard. The petitioners have also approached the Government objecting the same.

4. As far as pay scale is concerned, it would appear that, as per the work load in the year 2014-2015, the petitioners were taking lecture for 72 clock hours in month, whereas regular employees are taking much more than 125 hours period/lecture in a month. In some months the petitioners have taken 125 clock hours in a month. Same appears to be varying. There is nothing on record to show that the petitioners are regular employees. The interviews, it appears, were walk in interview for appointment on clock hour basis.

5. The corporation, it appears had passed a resolution on 20th July, 2017 to carry out further process so as to regularize services of petitioners. Thereafter, proposal was submitted of rescinding the resolution. It is submitted that, there is an objection raised by the petitioner to the same. It is for the Government to take decision upon it. As the matter is subjudiced before the Government for rescinding the resolution passed by the Corporation dated 20th July, 2017, we are not passing any further orders in the writ petitions. The Government may take decision upon the proposal submitted by the Corporation in this regard expeditiously and preferably within a period of six (06) months from today. The writ petitions are disposed of. No costs.

6. Depending upon the decision that may be taken by the Government, the parties are at liberty to take up further course of action in that regard. In that case all contentions of respective parties are kept open. As far as work load is concerned, the petitioners may agitate in respect of the same.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/April 19