

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1541 OF 2014
WITH
CIVIL APPLICATION NO. 8357 OF 2016

- 1] Young Boys Educational and Industrial Circle,
Aqsa Nagar, Wadjai Road,
Dhule.
Through its Secretary
 - 2] Islahul Banat Girls High School,
And Junior College of Science, Dhule
Aqsa Nagar, Wadjai Road,
Dhule.
Through its Principal
Habibur Raheman Abdul Majid,
Age : 58 Years, Occu. Service,
R/o. Aqsa Nagar, Vadjai Road,
Dhule.
- ...PETITIONERS

VERSUS

- 1] The State of Maharashtra,
Through Secretary for
School Education & Sports Department,
Mantralaya, Mumbai.
 - 2] Director of Education,
State of Maharashtra,
Central Building, B. J. Road,
Pune
 - 3] Deputy Director of Education,
Nashik Division, Nashik
 - 4] Education Officer (Secondary)
Zilla Parishad, Dhule
- ..RESPONDENTS

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Advocate for the Petitioners : Mr. P. V. Barde
A.G.P. for respondents Nos 1 to 4 : Mr. P.N. Kutty
...

**CORAM :T.V. NALWADE AND
SUNIL K. KOTWAL ,JJ.**

**ORDER RESERVED ON : 31.01.2019
ORDER PRONOUNCED ON : 05.02.2019**

ORDER(PER T.V. NALWADE, J] :-

1. The petition is filed for direction to the respondent authority to sanction and disburse the salary grants in respect of one post of part time teacher for a period starting from February 2013 onwards. Direction is sought against the respondent to make correction in the record, with regard to mistake committed showing less staff like absence of a part time teacher, in the communication dated 26.02.2013. Relief is also claimed for direction against the respondent to sanction one post of Supervisor in view of the number of teachers working with the petitioner institution.

2. Both the sides are heard.

3. The petitioner is running a School having classes of Standard 5th to 12th. It is receiving grant-in-aid. It is the contention of the petitioner that on the basis of strength of the students which was around 1164, in the academic year 2011-2012, 10.5 post of the teachers were sanctioned to its School and salary for those posts was also released. It is contended that, in the communication of February 2013, it was informed that for the academic year 2012-2013, only 10 posts of teachers were

sanctioned. It is case of the petitioner that it learnt that due to mistake committed by the authority which was due to faulty programming in the computers, less staff was shown in the communication of 26.02.2013. It is contention of the petitioner that from 8.3.2013, on many occasion by making representations, request was made to respondent to make the correction and release salary in respect of one part time teacher but no response is given to that representation. The petition came to be filed on 12.12.2013.

4. In the reply affidavit dated 7.4.2014, the Dy. Education officer of the Zilla Parishad Dhule has contended that due to inadvertent, less work load was shown for the year 2012-2013 and due to that one post of part time teacher was not shown. It is contended that this mistake was corrected for that year and 10.5 posts were shown to be sanctioned for that year, and the said grievance was redressed.

5. By filing re-joinder, the petitioner contended that if for one year, there was sanction of one part time teacher, the employee appointed on that post was entitled to get continuation in the service and so this post ought to have been continued and permanency benefit ought to have been given to said teacher. This contention of the petitioner is not at all acceptable. For creation of full time post there is needs to be application from the institution and after ascertaining the things the post can be created and at the time of filling of that post also various

things are required to be verified like the backlog of the reservation surplus teachers and then only the advertisement can be published and then the post can be filled. Thus, the subsequent contention made in respect of the entitlement of the said teacher by the institution is misconceived.

6. In the reply affidavit dated 7.4.2014, it is contention of the respondent that a post of Supervisor could have become available if there were 10 classes receiving grant-in-aid. It is contended that at the relevant time there were only eight classes, division receiving grant-in-aid and so there was no question of creation of post of supervisor for the petitioner School. It was contended that some division may start getting grants-in-aid as per the policy after completion of requisite period and after that the proposal if any made by the institution can be considered.

7. In the subsequent reply affidavit of education officer (Secondary), it is contended that as per the Government Resolution dated 28.08.2015, the programming is done in the computer system and on the basis of policy of the Government and the information as required to be supplied on line by the School staff patterns comes out automatically. It is the contention as per the new policy, for the year which came be declared in the year 2015, 10 teachers posts were

available for the year 2014-2015, but only nine teachers were available for the year 2015-2016.

8. Copy of the Government Resolution dated 28.08.2015 is produced and as per this Government Resolution, for 30 teachers, one post of Supervisor is now made available and only after having strength of more than 30 teachers, for every 15 teachers one more post of supervisor can be available and maximum number of supervisors will be 4. Thus, the petitioner does not fulfill the criteria given in the policy by the Government for getting post of supervisor.

9. During argument, the information was supplied in tabular form by the respondent authority, education officer, (Secondary), along with various reports prepared. The information is for separate division of each standard, from Class 5th to Class 10th. The information shows that new divisions which were sanctioned on no grant basis, started receiving grant from the year 2017-2018, and for that year for 66 students of 5th standard, grant of 20% was released in respect of two teachers. Similarly for 6 to 8 standard division, there were 48 students in new division and one teacher came to be sanctioned for the year 2017-2018 on 20% grant. This tabular information is for the year starting from academic year 2014-2015 and this Court sees no reason to disbelieve the said information. This Court holds that no case is made out for giving the directions claimed in the petition. The aforesaid

record shows that everything is done as per the policy of the Government. In the result, petition stands dismissed. Civil Application is also disposed of.

[SUNIL K. KOTWAL]
JUDGE

[T.V. NALAWADE]
JUDGE

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