

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

936 WRIT PETITION NO.799 OF 2017

Sabahat Fatema D/o Hussain Khan,
Age 37 years, Occu. Service as Junior
Lecturer in Indira Gandhi Urdu Girls
High School and Higher Secondary
School, Parbhani,
R/o. Iqbal Nagara, Parbhani
Tq. and Dist. Parbhani.

...Petitioner.

VERSUS

1. The State of Maharashtra,
School Education Department,
Mantralaya, Mumbai.
2. Dy. Director Education,
Aurangabad Region, Aurangabad.
3. The President,
Indira Gandhi Girls Education Society,
Parbhani, R/o. C/o. Indira Gandhi Urdu
Girls High School and Higher Secondary
School, Parbhani, Tq. & Dist. Parbhani.
4. The Head Mistress,
Indira Gandhi Urdu Girls High School
and Higher Secondary School, Parbhani,
Tq. and Dist. Parbhani.

...Respondents

...
Mr. Syed Masood Chand, Advocate for the petitioner
Mr. Dande S.S., AGP for the respondents No.1 and 2
Mr. Salunke V.D., Advocate for respondents No.3 and 4

...
**CORAM : SUNIL P. DESHMUKH &
S.M. GAVHANE, JJ.**

DATE : 18-06-2019

JUDGMENT (PER : S.P. DESHMUKH, J.)

1. Rule.

2. Rule made returnable forthwith. Heard learned counsel for the parties finally with consent.

3. The petition has been moved seeking directions in the nature of mandamus to pay salary of petitioner from July, 2016 onwards. After hearing the learned counsel, it appears, it is claimed that petitioner has been serving in the school since 2006. Since July, 2016, she has not been paid salary. He further claims that though, she has worked from October, 2016 to February, 2017, she has not been allowed to sign muster roll and has not been paid salary for said period also. For said purpose, learned counsel for the petitioner purports to rely on a few documents annexed to the writ petition which in his estimate indicate that the petitioner had, in fact, been working.

4. Learned counsel appearing on behalf of respondents No.3 and 4 purports submit that the matter had been conducted in very intriguing manner. Initially, impression was sought to be created that respondent No.4 had been avoiding to pay salary. However, the situation had been later on got verified, it is not so. So far as claim of the petitioner for salary from July, 2016 to September, 2016 is concerned, respondent No.4 does not have any particular objection. Salary bill for said period has been submitted by respondent No.6 to education officer. He submits that there are many things which may have to be taken into the account. He, however, submits that the claim of the petitioner about working from 01-10-2017 to 28-02-2017

is not proper and has been seriously disputed by respondent No.4. He further refers to the correspondence between the institution and the Zilla Parishad. He states that pay bills were submitted with the name of the petitioner and on some occasions on directions of officers of the education department without the name of the petitioner.

5. From some of the documents, one would gather that while respondent No.4 states that she has no particular objection for payment of salary to petitioner in respect of period of July, 2016 to September, 2016, there is some correspondence between the management and the education officer and subsequently, from education officer to Deputy Director. Referring to page 89, learned AGP purports to submit that petitioner might have received payment for said period. Learned counsel for the petitioner, however, takes objection to the same stating that, it is the usual procedure and manner in which advance receipts are issued while submitting the pay bills.

6. In the circumstances, it appears to be expedient that, if payment for the period from July, 2016 to September, 2016, if not already paid, the Deputy Director of Education to take a proper call on the same and if amount is due to the petitioner, same be paid to her, within a period of one month from date of receipt of this order.

7. In case appropriate representation along with proper

material is placed before education officer in respect of the period from October, 2016 to February, 2017, education officer after hearing the management may decide on the claim of the petitioner.

8. It is hoped that such a representation would be filed by the petitioner as early as possible and would be decided within a period of three months from the date of receipt of writ of this order.

9. Rule is made absolute in aforesaid terms. Writ petition is disposed of.

[S.M. GAVHANE, J.]

[SUNIL P.DESHMUKH, J.]

sarowar