

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 801 OF 2015***

Vijay Deepchand Marsale & Ors. ... Petitioners

V/s.

A.P. Greig Foundation and Ors. ... Respondents

Ms. Kruti /Bhavana Mhatre I/b. Gayatri Singh for the Petitioner.
Ms. Nisha Mehra, AGP for Respondents 1,3 and 4.
Mr. Prateek Seksaria a/w. Mr. I.J. Nankani and Mr. H.S. Khokhawala
I/b. Nankani & Associates for Respondent No.2.

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M. JAMDAR, J.***

DATE : 3 JULY 2019.

P.C. :-

Learned Counsel for the Petitioners seeks an adjournment on the plea that she has no instructions from the Petitioners.

2. We are not inclined to defer hearing for the reason the issue raised by the Petitioners can be decided on the existing pleadings.

3. The eight Writ Petitioners were employees of Silver Oak School established by A.P. Greig Foundation Trust. The School is a recognized unaided institution and it is the case of the Petitioners that they are entitled to be paid salary as per the Maharashtra Employees of Private Schools (Conditions of Service) Regulations Act, 1977 and Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. It is not in dispute that Schedule 'C' to the Rules of 1981 prescribes the scales in which different categories of employees of private recognized but unaided schools have to be placed for salary to be paid.

4. The Petitioners also rely upon a Government Resolution dated 21 May 2010 issued by the State of Maharashtra on the subject of salary payable to them.

5. Of the eight Writ Petitioners, Petitioner No.2 had already resigned on 30 June 2014 before the Writ Petition was filed, Petitioner No.1, 4 to 8 were visited with their services being terminated on various dates between 21 February 2014 to 19 May 2015 i.e. before the Writ Petition was filed.

6. We are not concerned in the instant Petition with the termination for the reason the same has not been challenged.

7. The case of the school is that till the Petitioners worked with them, salary was paid as per applicable scale notified in Schedule 'C' to the Rules of 1981. Pertaining to the Government Resolution dated 21 May 2010, the contention is that if a territory is occupied by the Rules, the same cannot be re-occupied by an administrative order.

8. The contention of the Respondents is correct. The liability of the school to pay salary to the teaching and non-teaching staff has to be as per the scales applicable prescribed in Schedule 'C' to the Rules of 1981, as amended from time to time.

9. We taken on record the statement of the school that the employees were and are being paid salary as per scales prescribed in Schedule 'C' to the Rules of 1981.

10. The Writ Petition is dismissed.

N.M. JAMDAR, J.

CHIEF JUSTICE