

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION NO. 10378 OF 2015.

Mrs.Srishti Sachin Khamkar and others .. Petitioners
Vs
The Union of India and others .. Respondents

Mr.Uday P.Warunjikar, for Petitioners.

Mr.Rui Rodrigues a/w Anamika Malhotra, for Respondent No.1.

Mr.M.M.Pabale, for Respondent Nos.2 and 3.

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

Date : 18 April, 2019.

P.C. :

1. Heard learned counsel for the parties.
2. Respondent Nos.4 and 5 are admitted by learned counsel for Respondent Nos.1 to 3 to be private institutions entitled to receive grant in-aid from the Government to impart teaching at senior secondary level. Experts in the field being of the opinion that differently abled children should be integrated in regular schools, the

Government of India implemented a scheme of integrated education for disabled children envisaging special teachers in regular schools in the ratio 1: 8 i.e. eight differently abled children requiring one special educator.

3. As per the scheme, 100 % grant to implement the same was disbursed by the Central Government to the State Government. The scheme listed the procedure for the grant. As per the scheme the Education department of the State Government had to submit the budgetary requirement as per the format annexed as Annexure IV to the scheme notified by the State Government.

4. Petitioners were appointed as special educators by Respondent Nos.4 and 5. Under the scheme notified by the Central Government they were being paid wages through Respondent Nos.4 and 5. Necessary grants had been received by the State from the Central Government and in turn disbursed to Respondent Nos.4 and 5. From the pleadings in the Writ Petition, which have fairly laconic it emerges that when the Writ Petition was filed salary to the Petitioners was not disbursed for the preceding three years. From the reply filed the reason which emerges is that the scheme which contemplated 100 % funding by the Central Government underwent a change. 60% grant was to be made by the Central Government and balance 40% by the State Government.

5. It is apparent that the officers in the Education

department of the State did not take steps to ensure that henceforth proposals be sent to Central Government to disburse 60% funds and the finance department of the State be directed to fund the balance 40%.

6. Be that as it may, the arrears were disbursed and learned counsel for Petitioners states that the arrears of salary claimed in the Writ Petition which was filed in the year 2015 had since been cleared. Learned counsel for the parties jointly state that till October 2016, payments have been made to the Petitioners. Thus inspite of the fact that the Petitioners continued to work wages have not been paid wages post November 2016. We are informed that Petitioner No.2 has since been voluntarily retired.

7. Notwithstanding the relief claimed in the Writ Petition being granted to the Petitioners but subsequent events need to be noted. The subsequent fact is that the Petitioners have not been paid the salary post November 2016.

8. The integrated education policy continues to be implemented by the State Government and thus it would be the obligation of the State Government to ensure that necessary grants are disbursed to Respondent Nos.4 and 5. The State Government has to follow up its proposals before the Central Government so that the Central Government releases 60% of the grant to the State Government.

9. For work done, Petitioners have to be paid the wages and they cannot be made to suffer on account of the procedures required to be followed by the State Government and the Central Government.

10. Thus we dispose of the Petition directing Respondent Nos.4 and 5 to pay salary to the Petitioners for the period they have worked. We note that said Respondents have even otherwise undertaken liability to pay salary to the Petitioners. We further direct the Union of India to ensure that 60% funds under the scheme are disbursed to the State Government. We further direct the State Government to ensure that its share of 40% under the scheme is sanctioned and made available to the Education department of the State.

11. Necessary payments shall be made to the Petitioners for the period they have worked within 8 weeks and for the period they continue to work the wages shall be paid each month.

12. No costs.

N.M.JAMDAR, J.

CHIEF JUSTICE