

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION NO. 10801 OF 2015

Shri Pawar Ashutosh Shripad & Ors. .. Petitioners
Vs.
State of Maharashtra & Ors. .. Respondents

Mr. Mihir Desai, Sr. Advocate i/b Mr. Vipul K. Bodhare for the
Petitioners.

Mr. M. M. Pabale, AGP for Respondent Nos.1 to 4-State.

CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.
DATE : 10th JULY, 2019.

P. C. :

1. Heard learned Counsel for the parties; noting that at the hearing today Counsel has not appeared for Respondent Nos.5 to 9.
2. Respondent No.5- a Trust; has established 5 schools; 4 of which are Respondent Nos.6 to 9.
3. The schools established by Respondent No.5 are partially admitted to grant-in-aid i.e. for certain sections alone and for a limited number of non-teaching staff grant-in-aid is being released by the Government of Maharashtra. The sections which are not admitted to grant-in-aid are managed by teachers appointed by the schools with liability on the schools to pay salary to said teachers.
4. The Writ Petitioners have been employed by the respective schools for teaching course not admissible to grant-in-aid.

5. The Respondent-schools are recognized schools under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and the Maharashtra Employees of Private Schools (Condition of Service) Rules, 1981. *Vide* Rule 7 teaching and non-teaching staff in recognized private schools have to be paid salary in the pay scale specified in Schedule 'C'. Appointed as Assistant Teachers, the Writ Petitioners would be entitled to receive salary in the pay scale of Assistant Teachers prescribed in Schedule 'C'; and needless to state the pay scale has been revised from time to time by amending the Schedule 'C'.

6. The claim of the Petitioners is that the respective school under which they are employed is not paying salary to them as per the scale prescribed in the Schedule. The response filed by the schools admit said fact but pleads the justification of lack of funds and that proposals sent to the Education Department of the State of Maharashtra to admit other sections for grant-in-aid have been illegally rejected.

7. Suffice it to state that if the schools had sought extension of the grant-in-aid by embracing other sections as well, rejection of the request has to be challenged by the said schools if the same is contrary to law.

8. This cannot be a ground to deny the Writ Petitioners wages as required by law. The 2nd, 3rd and 4th Respondents being the Director of Education, Deputy Director of Education and the Education Officer are duty bound to ensure that the schools recognized by the Education Department of the State of Maharashtra comply with the legislation governing the functioning of the recognized schools.

9. Thus, we dispose of the Writ Petition directing Respondent Nos.6 to 9 to pay wages to the Petitioners as per scale prescribed in Schedule 'C' of the Rules of 1981. Arrears would also be paid and for which we direct the said Respondents to do so. We direct the 4th Respondent to ensure that Respondent Nos.6 to 9 comply with the directions issued by the Court today. Respondent No.4 would ensure compliance being made within six months from today. Needless to state that if Respondent Nos.6 to 9 do not comply with the mandamus issued as also directions issued by this Court, such coercive steps which are warranted by law against the management of the said schools would be taken by Respondent No.4.

[N. M. JAMDAR, J.]

[CHIEF JUSTICE]