

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10451 OF 2019**

Ramesh Raghunath Raut

...Petitioner

Versus

State of Maharashtra & Ors

...Respondents

Ms Anupama Bharat Shah, for the Petitioner.

Mrs AA Purav, AGP, for Respondents Nos. 1 & 4-State.

Mr Prasad Gajbhiye, for Respondents Nos. 2 & 3.

**CORAM: S. C. Dharmadhikari &
G. S. Patel, JJ.**

DATED: 10th October 2019

PC:-

1. We had on the previous occasion directed that it is for the Education Department to intervene. On 27th September 2019 the following order was passed:

1. The Petitioner complains of being subjected to frequent and repeated transfers. A further complaint is that at the existing posting the Petitioner has not been paid anything as salary for the past nine months. The response is that the Petitioner has not abided by the transfer orders.

2. We direct the Deputy Director of Education, Mumbai South Zone, to call for the necessary records in relation to

the Petitioner's grievances including non-release of salary for the past nine months. He shall issue appropriate directions to the representative of the management and in the presence of the teacher so that when the salary bills are forwarded they will include the name of the Petitioner, including for all arrears, if found due.

3. We direct the Deputy Director to resolve and settle the issues as directed by us by 7th October 2019.

4. List the matter on 10th October 2019."

2. Our direction was clear and in terms of the same, the Deputy Director of Education, Mumbai called and summoned the records, he gave opportunity to all affected parties to produce the documents on which they seek to rely, whereafter he has held that from 2018-2019 for the fifth standard there are four approved teachers' post but six teachers are teaching at the KMS Dr Shirodkar Highschool, Parel, Mumbai. When there are two surplus teachers and there is no vacant post, firstly the petitioner was transferred from Mumbai to Mithbhav. Then the petitioner was brought back and for reasons best known to the teacher (petitioner before us) and the management. Both were happy because the petitioner came back to Mumbai and the management got an extra hand. Little did the management realize that the Government will not give up its stand but rather maintain it throughout that it is not obliged to give the management a grant for the salary to be paid to a teacher whose appointment has been disapproved by the Department way back in

May 2016. The management alone will have to bear the burden of his salary and pay month to month.

3. The management had been directed by the subject communication of the Deputy Director. Once the Deputy Director has placed a report dated 9th October 2019 before us and we take it on record, we do not think that we can intervene in the writ jurisdiction once the petitioner cannot be permitted to work at Parel, Mumbai. The order under challenge transferring the petitioner to Mithbhav requires no interference in our jurisdiction under Article 226 of the Constitution of India.

4. It is for the Department to enforce its order and direct and ensure that the petitioner obtains the salary for the period he has spent at Mumbai and such salaries are released and the amount is disbursed in his favour by the management. We maintain the Department's stand that under no circumstances will the public exchequer bear the burden of the petitioner's salary.

5. The writ petition is dismissed.

(S. C. Dharmadhikari, J)

(G. S. Patel, J)