

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6100/2016

Dinkar Shridhar Awathade

..V/s..

The State of Maharashtra and others

AND WRIT PETITION NO.6101/2016

Anil S/o Mahadeorao Nagpure

..V/s..

The State of Maharashtra and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri H.N. Potbhare, Advocate for the petitioner.
Shri A.M. Kadukar, A.G.P. for respondent Nos.1 to 4.

CORAM : RAVINDRA V. GHUGE, J.

DATED : 6.1.2020.

1] In both these identical matters, the petitioners pray for setting aside the common order dated 18.11.2014 passed by the respondent No.2 - Commissioner, Tribal Development Department, Nasik, State of Maharashtra by which the salary of untrained teachers already paid to the petitioners, is sought to be recovered.

2] I have considered the strenuous submissions of the learned Advocates for the respective sides.

3] There is no dispute that both the petitioners were appointed as Shikshan Sewak for three years. Vide

appointment orders, they were entitled for a stipend. After completion of two years of employment as a Shikshan Sewak, they would be entitled for regular pay-scale of an untrained teacher.

4] The Tribal Department issued an approval vide communication dated 18.4.2007. The appointment of these petitioners was, therefore, approved. They were mandated to complete their D.Ed. Course within five years. After they completed three years as Shikshan Sewaks, they were entitled to the pay-scale of an untrained teacher. It is undisputed that the petitioners' services are governed by the terms and conditions set out in their respective approval orders.

5] The petitioners make a grievance as regards the impugned orders since the Additional Commissioner passed an order dated 6.11.2012 by which the pay-scale of an untrained teacher that was paid to these petitioners post completion of three years as Shikshan Sewaks, was sought to be recovered. They challenged the said order before the Commissioner, Tribal Development, State of Maharashtra by preferring independent appeals. By the impugned orders dated 18.11.2014, their appeals were turned down.

6] The issue as regards the payment of the pay-scale of an untrained teacher to such Shikshan Sewaks who have not acquired D.Ed. qualification, has

been put to rest by the judgment delivered by the learned Division Bench of this Court in the matter of *Sheetal D/o Shivkant Chavan V/s. State of Maharashtra and others* (2018 (6) Mh.L.J. 546. It was concluded that after completion of three years of service as Shikshan Sewak, such candidates would be entitled to be regularized as Assistant Teachers. If they are not qualified, they would be entitled for the pay scale of untrained teachers till they acquired the requisite qualification. Both these petitioners have acquired their D.Ed. qualification in 2011.

7] Considering the above, the view taken by the learned Division Bench in *Sheetal D/o Shivkant Chavan V/s. State of Maharashtra and others (supra)* would be squarely applicable to both these cases.

8] As such, both these petitions are allowed.

9] The impugned orders dated 18.11.2014 passed by the Commissioner, Tribal Development, State of Maharashtra are quashed and set aside and the appeals preferred by these two petitioners are allowed.

(RAVINDRA V. GHUGE, J.)