

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2629 OF 2020

Smt. Sonali Rajendra Nagargoje
Age 32 years, Occ. Service as
Assistant Teacher,
R/o Shikshak Colony,
Nagar Road, Beed,
Tal. & District Beed,

...Petitioner

Versus

1. The State of Maharashtra
Through its Principal Secretary,
School Education Department,
Mantralaya, Mumbai-32.
2. The Deputy Director of Education,
Aurangabad Division, Aurangabad.
3. The Education Officer (Secondary),
Zilla Parishad, Beed.
4. The Superintendent,
Pay and PF Unit,
Zilla Parishad, Beed.
5. The Secretary,
Shrinath Shikshan Prasarak Mandal,
Kordyachi Wadi,
Tal. & District Beed.
6. The Headmaster,
Subhadrabai Secondary School,
Nagar Road, Beed,
Tal. & District Beed.

...Respondents.

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Mr. S.S. Thombre, Advocate for the Petitioner.
Mr. S.B. Yawalkar, AGP for Respondent Nos.1 to 4.
Mr. S. B. Solanke, Advocate for Respondent Nos.5 & 6.

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**CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, J.J.**

DATED : 17th JULY, 2021

ORAL JUDGMENT (PER RAVINDRA V. GHUGE J.) :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioner is before us with a prayer that her unpaid salary bills be released. She has put-forth prayer clause (b) and (c) as under:

“b. By issuing writ of Mandamus or any other writ, order in the like nature, direct the respondent nos.5 and 6 to submit the pay bills of the petitioner to the Education Officer and the Education Officer may kindly be directed to release the salary of the petitioner and for that purpose issue necessary orders;

c. Pending the hearing and final disposal of the present Petition, direct the respondent nos.5 and 6 to submit the pay bills of the petitioner to the Education Officer and the Education Officer may kindly be directed to release the salary of the petitioner and for that purpose issue necessary orders;”

3. After considering the extensive submissions of the learned advocates for the respective sides, we are shocked to note that the then Education Officer, Smt. Usmani Nazma Sultana directed the management to file an affidavit dated 28.09.2019 undertaking that they will not forward the salary bills of the junior-most teacher, notwithstanding that the said teacher is eligible to be appointed and has been legally appointed, only because one, Smt. Meera Pandurang Gilbile, unconnected with the present petitioner, had challenged her termination before the School Tribunal vide her Appeal No.25 of 2018.

4. There is absolutely no dispute that the service of the petitioner and her performance of duties, are unconnected with Smt.

(3)

Gilbile or her termination. Smt. Gilbile has approached the School Tribunal challenging the action of the employer of terminating her services with effect from 15.06.2019, terming such act as being an illegal act on the part of the management. The termination of Smt. Gilbile is unconnected with the employment of the petitioner and it is not that Smt. Gilbile has been terminated to accommodate, or show favoritism regardless of merits, the petitioner.

5. Since a serious allegation was made on oath by the management vide their affidavit in reply dated 05.07.2021 attributing the above acts to the education officer, we called upon the learned AGP to take instructions. We appreciate the steps taken by the learned AGP in placing on record an affidavit, through the present Education Officer (Secondary), within 24 hours, on 16.07.2021. The learned AGP points out that the only reason why the then Education Officer, Smt. Sultana extracted an affidavit from the management was in anticipation that if Smt. Gilbile is reinstated, the salary grants must be available to pay her salary or backwages, as may be directed by the School Tribunal.

6. We find such act on the part of Smt. Sultana to be not only a high handed act, but a strange act which was based on the idea that struck the education officer to deprive the petitioner, a junior-most teacher in the institution, of her salary so as to pay Smt. Gilbile apprehending that some day Smt. Gilbile might get reinstated in employment. This act of Smt. Sultana would therefore amount to be a Robin Hood act. It was like, robbing Paul to pay Peter. Such an act cannot be countenanced and cannot be tolerated under any circumstances.

7. In view of the above, this petition is allowed. Respondent nos. 5 and 6 – Management/Headmaster, shall ensure that all the pending salary bills of the petitioner, for the unpaid salary, shall be placed before respondent no.3, Education Officer, on or before 23.07.2021 and the said bills shall be cleared by the Education Officer. We direct respondent nos.3 and 4 to clear the said salary bills with such promptitude that the said arrears of wages shall be deposited in the salary bank account of the petitioner on or before the 07th day of August, 2021. So also, the regular monthly salary of the petitioner shall also be cleared along with all other teachers.

8. We would be failing in our duty if we ignore the conduct of Smt. Usmani Nazma Sultana, the then Education Officer, who had arbitrarily extracted an affidavit from the management, which is conceded by the statement made in the affidavit in reply dated 16.07.2021 filed by the present education officer. If we blink at such a conduct of an Education Officer, it would not be surprising that we would come across many such instances. We are therefore, imposing cost of Rs.50,000/- on the said Education Officer, Smt. Sultana and the said amount shall be paid to the petitioner in 10 equated installments. The Drawing and Disbursing Officer (DDO) shall debit the amount of Rs.5,000/- per month from the pensionary benefits of Smt. Sultana and deposit the said amounts in the salary bank account of the petitioner.

9. Rule is made absolute in the above terms.

(S.G. MEHARE. J)

(RAVINDRA V. GHUGE, J)