

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

903 REVIEW APPLICATION (CIVIL) NO.5 OF 2021
IN WP/10812/2018

PAWAN MANIKRAO BIRAJDAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.B.R.Waramaa, Advocate for the applicant.
Mr.S.R.Yadav-Lonikar, AGP for respondent Nos. 1 and 2.
Mr.K.P. Rodge, Advocate for respondent Nos. 3 and 4.

(CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, JJ)

DATE : SEPTEMBER 30, 2021

PER COURT :

1. By this review petition, the applicant prays for reviewing the order dated 24/02/2020 delivered by this Court in Writ Petition No.10812/2018 to the extent of the observations of the Court in paragraph Nos. 4 and 5, which read as under :-

“4. In paragraph no.5 of the petition, the petitioner has given details of the workload available in the Respondent No.4-Institution. According to the petitioner, he is taking 240 periods under MCVS Scheme and 1088 periods for History and Geography subjects and if combined workload is considered, then the workload of minimum periods required for full time

appointment, is available.

5. The petitioner has not been able to point out that he is qualified to teach History and Geography subjects. Only because the Respondent No.3 – Management and Respondent No.4 – Institution are extracting work from the petitioner, though he is not qualified, it does not give any right to the petitioner to make the claim against the Respondents No.1 and 2, as made in the present petition. Hence, as the petitioner has failed to point out violation of any legal or statutory right, we are not inclined to issue writ of mandamus, as sought by the petitioner.”

2. We have considered the strenuous submissions of the learned Advocate for the applicant. We have gone through the judgment delivered by this Court dated 31/10/2018 in WP No.5867/2015 filed by Madhukar Bhavanrao Sadgir and others alongwith connected petitions.

3. There is no dispute that respondent Nos. 3 and 4 Educational Institutions had not published any advertisement and had not conducted any selection process while allowing the petitioner to work as an Assistant Teacher on payment of stipend of Rs.1,000/- per month since June 2010. He has acquired the qualifications of B.A.B.Ed. in English and Geography and he has completed his M.A. in the English.

He was conducting 240 periods under the M.C.V. C. Scheme floated by respondent No.2 District Vocational Education and Training Office, Latur. He desires to seek regularization in the employment of respondent No.3 / Education Society. It is submitted that he has been working for a period of 8 years from 2010 to 2018 with the School for teaching English subject in the M.C.V. C Scheme, on purely contractual basis. The Management orally asked him to deliver lectures and impart education in the Geography and History subjects.

4. The Management of the Society has filed an affidavit in reply and has taken a stand that though the Management can accommodate the petitioner on the post of an Assistant Teacher, the same shall be subject to grant of approval by the Education Department. It is made clear in paragraph No.5 of the said affidavit dated 30/09/2021 that in the event of denial of approval by the Education Department, the services of the petitioner would be terminated and the Management would not entertain any claim. He was appointed unofficially on humanitarian grounds and his services were solicited on Clock Hour Basis by the Management since 2010.

5. The facts set out by the parties recorded hereinabove are quite disheartening. The petitioner's existence as a teacher is purely unofficial. Clock hour basis is the foundation of his engagement on contractual basis. He is well educated.

6. We have perused the judgment delivered by the Co-ordinate Bench of this Court in Madhukar Sadgir case (supra). Following are the distinguishing features, based on which the claims of those petitioners were favourably considered ;

[a] Their names were called from the Employment Exchange,

[b] Interviews were conducted and they were selected to officiate as Assistant Teachers as well as in the non teaching category,

[c] The State Government had regularized services of teaching and non teaching staff working in vocational courses conducted by the Tribal Development Department, in view of the Government Resolution dated 08/07/2014.

[d] The workload was available and the Education in the Ashram Schools under the Tribal Development Department would suffer if they were not recruited.

[e] Those petitioners were catering to the needs of the Tribal students

in tribal areas where teachers were not willing to work and would not apply for employment.

[f] The respondent/State admitted that those petitioners were appointed on sanctioned posts.

[g] The Tribal Development Department had regularized services of more than 400 employees officiating as teaching and non teaching staff in vocational courses run by the Tribal Development Department, vide GR dated 08/07/2014

7. The above mentioned features in the Madhukar Sadgir case (supra) clearly distinguish the said cases with the one in hand. The petitioner is not qualified to teach the subject of History. He was selected by a Private Management without following the due procedure. The same Management today contends before us that if the Education Department legitimizes the appointment of the petitioner, the Management would continue his employment.

8. In view of the above, we do not find any reason to entertain this review petition as the petitioner has been unsuccessful in pointing out an error apparent on the face of the order sought to be reviewed.

9. As such, this review petition stands dismissed.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)