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

WRIT PETITION NO.4495 OF 2018

Shaikh Mubin Ali Murtuja Ali,
Age 49 Years, Occu. Service,
R/o Masoom Colony,
Near Iqra School, Dargah Road,
Parbhani, Dist. Parbhani

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Secretary,
School Education and Sports
Department, Mantralaya,
Mumbai 400 032
2. The Secretary,
Rural Development Department,
Mantralaya, Mumbai 400 032
3. The Chief Executive Officer,
Zilla Parishad Parbhani,
Dist. Parbhani
4. The Project Director,
Maharashtra Prathmik Shikshan
Parishad, Office at Charni Road,
Mumbai at Mumbai
5. Education Officer (Primary),
Sarva Shiksha Abhiyan,
Zilla Parishad, Parbhani
6. Block Education Officer,
Panchayat Samiti, Parbhani,
Tq. & Dist. Parbhani

..RESPONDENTS

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Mr A.B. Dhongade, Advocate for petitioner;
Mr S.B. Pulkundwar, A.G.P. for respondent nos.1, 2 & 4;
Mr R.K. Ingole Patil, Advocate for respondent nos.3 & 5;
Mr S.P. Pandav, Advocate for respondent no.6

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**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 24th August, 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 has putforth prayer clauses (a), (b) and (c) as under:-

“(a) That, a writ of Certiorari or any other writ, order or direction be issued to the respondents calling for record pertaining to order dated 18.04.2018 from the respondent Chief Executive Officer, Zilla Parishad, Parbhani.

(b) That, a writ of Mandamus or any other appropriate writ, order or direction be issued ordering and directing the respondents to retain the petitioner at Block Research Center Parbhani on the post of Senior Accounts Clerk and for that purpose appropriate order be issued.

(c) Pending the hearing and final disposal of the present writ petition, interim and ad-interim stay may kindly be granted to the implementation of order dated 18.04.2018 issued by Chief Executive Officer & President of Maharashtra Prathmik Shikshan Parishad, Zilla Parishad, Parbhani with further interim order, ordering and directing the respondents to retain the petitioner at Parbhani till decision of this petition.”

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3. The petitioner was appointed on contractual basis on 12.02.2004 as a Senior Accounts Clerk with Zilla Parishad, Parbhani for a period of six months. Thereafter, he has signed various contracts for six months and has been posted at various places like Sailu, Parbhani, Sonpeth and again at Parbhani. He has discharged his duties in these Talukas on the basis of various contracts signed for periods of six months each. It is only with reference to his new contract dated 18.04.2018 for the period 03.04.2018 to 29.09.2018 when he was deployed at Sonpeth, that he has raised a grievance before this Court. He approached this Court by filing this petition on 27.04.2018. Notwithstanding prayer clause (c), this Court granted him *ad interim* relief in the nature of *status quo* as regards order of transfer, on 04.05.2018.

4. The learned Advocate for the petitioner has extensively canvassed the grounds formulated by him in the petition paper-book. He concedes that prayer clause (c) was not granted by way of interim relief. However, by virtue of the *status quo* order, he discharged his duties till November, 2018. He has not been paid his wages for the work that he has performed for the duration after the interim order of this Court till September, 2018.

5. The learned Counsel for the respondents submit that the impugned order dated 18.04.2018 is not a transfer order. It is a new contract setting out terms of the contract for engaging the services of the petitioner on contractual basis for the duration 03.04.2018 to 29.09.2018. It was specifically mentioned in the contract, that the contract would commence

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from the date he takes charge of his position at the place for which the contractual employment has been awarded to him. The petitioner did not join the place at which he was posted by virtue of the said contract.

6. The learned Advocate representing respondent no.6 submits that the petitioner was issued with a notice dated 23.03.2018 by which he was relieved from Parbhani on 31.03.2018 as his contract came to an end by efflux of time. Thereafter, he was not in employment with the respondent no.6's office at Parbhani. His fresh contractual period was 03.04.2018 to 29.09.2018 which was to be made effective from the date he reported at Sonpeth by virtue of the new contract dated 18.04.2018. As he did not join the place where he was posted, it was presumed that the petitioner did not desire to sign the contract.

7. The learned Advocate for the petitioner is short of instructions as to whether the petitioner signed the contract and then approached this Court by filing the petition. He was not supplied with this information by the petitioner.

8. We find, either ways, that the petitioner is at a loss. If he has signed the contract dated 18.04.2018, the terms of the contract bind him by his conduct. He is then estopped from making a grievance against the contract. If he has not signed the contract, the same would not be binding on him and he would not be required to join at Sonpeth since there would be no contract between him and respondents, post he being relieved from

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Parbhani after the expiry of the earlier contract, by efflux of time.

9. In view of the above, we find that the impugned order does not have the semblance of a transfer order. It is plain and simple contract which is to be freshly signed between the petitioner and the respondents.

10. In view of the above, we do not find any merit in this petition. The same is, therefore, dismissed.

11. Nevertheless, we deem it appropriate to record that if the petitioner has worked at Parbhani under respondent nos.3 and 5, he would be entitled for the contractual payment for the days he has worked. Respondent nos.3 and 5 shall, therefore, calculate the contractual wages and ensure that the said payment is made to the petitioner on or before 30.09.2021.

12. Rule is discharged. There shall be no order as to costs.

13. Pending Civil Application filed by respondent no.6 would not survive and, therefore, stands disposed off.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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