

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

WRIT PETITION NO. 14799 OF 2017

Balasaheb Bajirao Pawar

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. P. R. Katneshwarkar, Advocate h/f Mr. Mahesh S. Bhosale, Advocate for the Petitioner.

Mr. K. N. Lokhande, AGP for Respondent Nos. 1 to 3.

Mr. V. P. Golewar, Advocate h/f Mr. A. R. Joshi, Advocate for Respondent No. 5.

Mr. A. V. Hon, Advocate for Respondent Nos. 6 and 7.

Ms. M. S. Mhase Thube, Advocate h/f Lex Aquila, Advocate for Respondent No. 8.

**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATED : 09th February, 2021.

PER COURT:-

. Mr. Katneshwarkar, learned counsel for the petitioner submits that large scale illegalities have been committed in the selection process while selecting respondent No. 8 and rejecting the petitioner. The petitioner is working with the respondent institution for five years prior to the selection process on grant in aid post. The petitioner is working on permanent non grant in aid post. The petitioner is more qualified than respondent No. 8. The petitioner possess Ph.D. qualification. The respondent No. 8 does not possess the said qualification. Deliberately,

the petitioner's claim is negated.

2. The learned counsel for the petitioner further submits that the petitioner is also not paid salary as per the pay scale along with all the emoluments.

3. Mr. Hon, learned counsel for the respondent institution submits that the petitioner was appointed on permanent non grant in aid post. The salary is being paid to the petitioner as admissible. The institution does not have sufficient students and funds to pay the amount to the petitioner, still they are paying the salary as per the pay scale. D. A. is not paid to the petitioner as per the applicable rate, however, less D. A. is paid. The salary certificate is also placed on record.

4. As far as the selection process is concerned, the selection committee consist of experts and the selection committee has selected respondent No. 8. Malafides are not alleged against individual members of the expert committee. It would be inappropriate now at this stage to go into the proceedings of the selection committee.

5. The petitioner, admittedly is working with the respondent institution on non grant in aid post. The salary payable to an employee on grant in aid and / or non grant in aid is same. In non grant in aid the institution is supposed to bear the salary of the employee.

6. There is word against word regarding the exact salary receivable by the petitioner and paid to the petitioner. In that event, it would be appropriate to refer the parties to the Director of Higher Education or Deputy Director of Higher Education (respondent No. 3).

7. The petitioner may put forth his claim regarding salary / arrears of salary with respondent No. 3. The respondent No. 3 shall consider the claim of the petitioner and also call for the say of the respondent Nos. 6 and 7. The respondent Nos. 6 and 7 may also place before the respondent No. 3 all the documents, which they seek to rely with regard to the payment of salary. The respondent No. 3 after considering the claim of the petitioner and the say of respondent Nos. 6 and 7 shall take decision with regard to the admissible pay scale to the petitioner and the amount, the petitioner is entitled to. The parties shall thereafter abide by the orders passed by the respondent No. 3 and / or take further steps against the order as would be passed by the respondent No. 3.

8. Writ petition accordingly is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

P.S.B.