

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5895/2006.

Padmakar Diwakar Khanang. Petitioner.

-VERSUS-

Education Officer, High School,
Zilla Parishad, Gondia and others. Respondents.

.....

Shri S.P. Kshirsagar, Advocate for the Petitioner.

Shri A.A. Madiwale, Assistant Government Pleader for
Respondent No.1.

Shri M.I. Dhattrak, Advocate for Respondent Nos. 2 and 3.

Shri S.S. Ghate, Advocate for Respondent No.4.

.....

**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATE : 25 JANUARY 2021.

P.C.

Heard learned Counsel for the Parties.

2. The Petitioner has filed this Writ Petition for setting aside the order passed by the Education Officer – Respondent no.1 on 31 December 2005, and to direct the Education Officer

2

to release salary of the Petitioner as a Headmaster.

3. The dispute is between the Petitioner and Respondent No.4 as regards their entitlement to the post of Headmaster. By order dated 6 February 2020 this Court had noted that the Petitioners' claim is that he had served as Headmaster with Respondent No.3 School run by the Respondent No.2 Municipal Council from 1 September 1995 to 20 February 1998. The learned Counsel for the Petitioner reiterates that the monetary claim of the Petitioner would be for the period from 1 September 1995 to 20 February 1998.

4. Both, the Petitioner and Respondent No.4 have now long since retired from service. When this petition came up before the Court on 21 January 2021 we passed the following order.

“ Prima facie, after hearing the Counsel for the parties, we are of the opinion that the issue as to who is entitled to the monetary claim, the Petitioner or the Respondent No.4, in respect of the disputed period, can be appropriately decided by the Education Officer.

2. As, an advocate sought adjournment is on behalf of the Advocate for the Petitioner, stand over to 25 January 2021 under the caption of ‘Order Matters’.”

At the time passing of this order, the learned Counsel for the Respondent No.4 was not present.

5. Today when the matter was called out, the learned Counsel for Respondent No.4 states he is not averse to the order that is proposed to be passed, but, there had been subsequent orders which will demonstrate that it is Respondent No.4 who is entitled to the monetary claim. Respondent No.4 can always bring this position to the notice of the Education Officer.

6. In these circumstances, as observed in the order dated 21 January 2021, we dispose of this petition directing the Education Officer – Respondent No.1 to decide the factual aspect as regards entitlement of Petitioner and Respondent No.4 as regards aforesaid period.

7. Considering the fact that the issue is pending for a long time, the Education Officer will decide the claim within a period of 12 weeks from the date this order reaches him. The Petitioner and Respondent will cooperate with the Education Officer in producing all the relevant record, since the record is old. The Writ Petition is accordingly disposed of with above directions. No costs.

(ANIL S. KILOR, J)

(NITIN JAMDAR, J)

Rgd

Rakesh
Dhuriya

Digitally signed
by Rakesh
Dhuriya
Date: 2021.01.29
16:11:53 +0530