

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

WRIT PETITION NO. 1757 OF 2019

Shripatirao s/o. Baliram Potdar,
Died through his legal representatives :

1-A] Rajesh s/o. Shripatrao Potdar,
Age; 49 years, Occ : Legal practitioner

1-B] Manish s/o Shripatrao Potdar,
Age : 48 years, Occ : business.

Both resident of B-3, Tirupati park,
Jae, Gurusahani nagar, N-4,
CIDCO, Aurangabad 431 001

1-C] Sarojani d/o. Shripatrao Potdar
@ Sarojani w/o Vilas Potdar,
Age: 53 years, Occ : housewife,
R/o : Flat no.3, Singhareni Colony,
District Warangal, Telangana State.

1-D] Jayshree d/o. Shripatrao Potdar
@ Jayshree w/o Anil Potdar,
Age: 51 Years, Occ : household,
R/o. 'Aai' 42-B, Shrikrishn Rukmini Nagar,
Navin Mondha Road, Krishna Tailors,
Jalna – 431 203.

.. PETITIONERS

VERSUS

1] The State of Maharashtra,
Through its Secretary,
Education Department,
Mantralaya, Mumbai 400 032.

- 2] The Education Officer [Secondary],
Zilla Parishad, Osmanabad,
District Osmanabad.
- 3] The Head Master,
Bharat Vidyalaya, Omerga,
Taluka Omerga,
District Osmanabad.
- 4] The President,
Bharat Shikshan Sanstha,
Bharat Vidyalaya, Omerga,
Taluka Omerga,
District Osmanabad.

.. RESPONDENTS

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Mr.A.A.Mukhedkar, Advocate for the petitioners.
Ms.R.P.Gaur, AGP for the respondent-State.
Mr.S.S.Jadhavar, Advocate for respondent no.4

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**CORAM : SMT. SADHANA S. JADHAV &
S.G.DIGE, JJ.**

DATE : 24.03.2022

ORAL JUDGMENT Per : Smt. Sadhana S. Jadhav, J. :

1] Rule. Rule made returnable forthwith and heard
with the consent of the parties.

2] By this Petition, the petitioner herein impugns
the communication between the Headmaster i.e. respondent
no.3 and the Education Officer, Osmanabad dated 11th
April, 2015. The petitioner herein has retired by
superannuation. It is the case of the petitioners that the

petitioner was appointed as Drawing Teacher on 01.07.1963 and continued to work there till 31st June, 1996. It is the case of the petitioners that the petitioner was entitled to seek selection pay grade in view of the fact that he had completed 12 years of service. He is not receiving the same. According to the learned counsel for the petitioners, the Headmaster by letter dated 11th April, 2015 had given an opinion that since the petitioner has completed 12 years of service after superannuation, he is not entitled to the said pay scale. In fact, the petition is premature what is challenge in the Writ Petition is only an opinion expressed by the Headmaster in respect of entitlement of the petitioner.

3] Learned AGP submits that as per the Education Officer, the pay scale increased from time to time, has been suppressed by the petitioner and that the Government Resolution dated 02.09.1989 postulates certain terms and conditions for claiming entitlement for higher selection grade and as per the guidelines the criteria of 12 years of service needs to be completed on the same pay scale, however, the pay scale in the present case was increased from time to time.

4] In any case, it appears that the issue whether the petitioner is entitled to the selection pay scale is pending and still subjudice before the Education Officer.

The Education Officer shall decide the claim of the petitioner within four weeks without influenced by the communication dated 11th April, 2015 given by respondent no.3. The entitlement shall be decided in accordance with Rules and Guidelines of the Government issued from time to time.

5] With these directions, the Writ Petition stands disposed of. Rule is made absolute in above terms.

6] The petitioners are at liberty to make fresh representation to the Education Officer and the same shall be decided in accordance with law.

[S.G.DIGE, J.]

[SMT. SADHANA S. JADHAV, J.]

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