

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

907 WRIT PETITION NO.5047 OF 2022

**SANDESH BANKATRAO VISPUTE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS**

...

Advocate for Petitioners : Mr. H.P. Kshirsagar
AGP for Respondent Nos. 1 to 3 : Mr. S.K. Tambe
Advocate for Respondent Nos. 4 & 5 : Mr. S.V. Dixit

...

**CORAM : RAVINDRA V. GHUGE &
ARUN R. PEDNEKER, JJ.**

DATED : SEPTEMBER 6th, 2022.

PER COURT :

1. The petitioner has put forth prayer clauses 'B', 'C' and 'D' as under :-

B] By issuing writ of mandamus or any other writ/order thereby May kindly be directed to the respondent no. 2, Dy. Director of Education and respondent no. 3, Education Officer (Secondary) Ahmednagar to implement the order of this Hon'ble Court and correct the record as higher pay scale as previous condition since the appointment of petitioner, the petitioner further prayed for the Education officer granted the approval on 11/12/1989 and in that order mentioned special teacher (after ward corrected as Assistant teacher), now needs to be consider as special teacher.

C] By issuing writ of Certiorari or any other appropriate writ or direction, may kindly be quashed and set aside the letter dated 16/01/2004 & 12/07/2005 or any other wrongly passed order or letter against the petitioner in the interest of natural justice.

D] May kindly be directed to Respondent authorities to award all the promotional benefits, corrected the records as per law and this Hon'ble Court Order paid the back wages as per law within a stipulated period & refund the amount Rs.45000/- of petitioner's deducted from the salary.

2. Insofar as his prayer clause 'B' is concerned, this Court cannot entertain a writ petition for disobedience of its earlier order. The petitioner has a statutory remedy. Hence, this petition is not being entertained to the extent of prayer clause 'B'.

3. Insofar as his prayer clause 'C' is concerned, the petitioner prays that the letters dated 16.1.2004 and 12.7.2005, be quashed and set aside. The petition is filed on 20th April, 2022, which is after eighteen years of the first letter and about sixteen and half years after the second letter. His Writ Petition No. 2819/2006 was already pending before this Court. In the said petition, he had assailed the letter dated 12.7.2005. The petitioner cannot repeat the same prayer by filing a petition in 2022, when he had already espoused his cause in the 2006 petition. As such, this petition cannot be entertained to the extent of prayer clause 'C'.

4. With regard to prayer clause 'D', the same is dependent upon the fate of the challenge to the letter dated 12.7.2005. Considering our conclusion in the foregoing paragraphs, prayer clause 'D' cannot be entertained.

5. This petition is, therefore, dismissed.

6. The learned advocate for the management submits that

subsequent events have taken place. An enquiry was conducted by the management pursuant to the order of this Court dated 4.10.2018 while disposing off the Writ Petition No. 2819/2006.

7. As such, the petitioner would be at liberty to avail of a statutory remedy, as may be permissible in law, to deal with the disciplinary action taken by the management.

[ARUN R. PEDNEKER J.]

[RAVINDRA V. GHUGE, J.]

SSC/