

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

952 WRIT PETITION NO.477 OF 2015
WITH
CIVIL APPLICATION NO.12158 OF 2021
WITH
CIVIL APPLICATION NO.10826 OF 2021
WITH
CIVIL APPLICATION NO.8842 OF 2021
WITH
CIVIL APPLICATION NO.1167 OF 2020
WITH
CIVIL APPLICATION NO.637 OF 2017
WITH
CIVIL APPLICATION NO.6030 OF 2016

MAHESH RAMESH PATIL

... Petitioner

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

... Respondents

...

Petitioner/Applicant : Party In Person

AGP for Respondents State: Mrs M. A. Deshpande

Advocate for Respondent No.2 : Mr. D. K. Rajput

Advocate for respondent Nos. 3 & 4: Mr. S.S. Kulkarni

CORAM : A.S. GADKARI & S. G. MEHARE, JJ.

DATE : 7th January, 2022

ORDER:

1. Heard Mr. Mahesh Patil, Petitioner in person, Mrs. M. A. Deshpande, AGP for Respondent No. 1 State, Mr. D. K. Rajput, Advocate for Respondent No.2 and Mr. S.S. Kulkarni, Advocate for respondent Nos. 3 and 4. Perused entire record.

2. Perusal of petition would indicate that, the petitioner has prayed for following main reliefs amongst various other reliefs in the petition. The main reliefs as prayed for, are reproduced hereinbelow for the sake of brevity.

"(B) By writ, order or directions, the respondent Nos.3 and 4 may kindly be directed to allow the petitioner to join his duties as per the orders of absorption of the petitioner dated 16.08.2014 issued by the respondent No.2 Education Officer (Primary), Zilla Parishad, Aurangabad.

(C) By writ, order or directions, the respondent No.2 may kindly be directed to direct the respondent Nos. 3 and 4 to implement the order of absorption of the petitioner dated 16.08.2014.

(E) By writ, order or directions the respondent No.1 may kindly be directed to direct the respondent No.2 to strictly implement the Government G.R. dated 26.06.2014 in respect of surplus teachers to the extent of the petitioner."

3. Apart from above main prayers, petitioner has also prayed for alternative prayers, which are as under:-

"To direct the respondent No.2 Education Officer (Primary), Zilla Parishad, Aurangabad to absorb the petitioner in any aided primary school run by private management under District Aurangabad."

OR

"To direct the respondent No.2. Education Officer (Primary), Zilla Parishad, Aurangabad to absorb the petitioner under any primary school run by Zilla Parishad, Aurangabad."

4. As far as alternative prayers prayed for by the petitioner are concerned, the record clearly indicates that, the petitioner is a teacher who has been absorbed as surplus candidate and deployed with Ravisut Marathi Primary School which is now in operation at Ranjangaon Shenpunji, Taluka Gangapur District Aurangabad. Respondent No. 5 submitted that, the said school is in operation and receives grant-in-aid. These facts have been recorded by this Court in its order dated 20.09.2021. Learned counsel for respondent No.2 reiterated that, the said school is an aided primary school being run by a private management in the District of Aurangabad.

It is thus apparently clear that, the substantive alternate prayer/relief prayed for by the petitioner has been worked out in its entirety and there should not be any grievance by the petitioner for the same.

5. In view of above we find that, the grievance of the petitioner has been redressed by the respondent No.2 and the petition need not be kept pending hereinafter.

6. The record further indicates that, subsequently, the petitioner amended the petition and various other prayers have been added therein, including to lodge crime under various provisions of Criminal Procedure Code against the concerned persons for alleged irregularities

by the respondents. As far as other prayers are concerned, it appears to us that, those are taken in the petition without considering the substantive alternative remedy available at the disposal of the petitioner. By amending the petition and incorporating various prayers subsequently, petitioner has unnecessarily enlarged scope of the petition. According to us, the said prayers are incorporated subsequently only to enlarge the scope of the petition with a view to keep it pending for the reasons best known to the petitioner himself.

7. Petitioner has also filed above mentioned civil applications for various substantive reliefs which according to us are not germane for deciding the main petition. It clearly indicates that, the petitioner intends to enlarge scope of the petition without any lawful reason thereof.

8. There is another facet to the present case.

It appears from the record that, the petitioner repeatedly made grievance that, he has not been taken into service and has not been provided with salary. This Court therefore passed an Order dated 20.09.2021 and in paragraph No.3 thereof, had issued following directions:-

"3. We, therefore, direct respondent No.2- Education Officer to remain present in respondent No.5 school from 10.30.a.m. on-wards and monitor the joining of the petitioner at respondent No.5 School. The learned Advocate for respondent

No.5 submits that he would receive the joining report of the petitioner and accordingly allot him the lecture/class hours as per the time table."

Learned counsel for respondent No.2, on instructions submitted that, in pursuance of the said directions, though the petitioner came at the school premises on 23.09.2021 at about 10.15 a.m., instead of joining duty, he made unreasonable and redundant requisitions such as, showing authenticity of the establishment of school, its working pattern, its staffing pattern and other documents which have no relevance for the petitioner for joining his duty.

9. It is the contention of the petitioner that, the said school is not having any student and therefore his attending the said school is of no avail to the society at large. Respondent No.2 submitted that, though the management of respondent No.5 school was inclined to allot necessary work i.e. tuition/class hours to the petitioner, he raised the said frivolous and redundant points and refused to join on that particular day.

10. The above noted facts clearly reveal that, as a matter of fact the petitioner is not working in the said school as of today. In view thereof, we are constrained to direct all the concerned, not to release salary of the petitioner from 23rd September, 2021 till he actually joins and performs his duty with respondent No.5- Ravisut Primary School, run by Management of Vishwashanti Chhatrapati Shiv Smaran Jyot Samajik,

Shaikshanik, Krida va Sanskrutik Mandal, Ranjangaon Shenpunji, Taluka Gangapur District Aurangabad.

11. Writ petition is partly allowed in the aforesaid terms.

In view of disposal of the petition, Civil Application Nos. 12158/2021, 10826/2021, 8842/2021, 1167/2020, 637/2017 and 6030/2016, do not survive and are accordingly disposed off.

12. At this juncture, learned counsel for respondent No.2- Education Officer submitted that, the Education Department has already initiated enquiry against the petitioner for certain lapses on his part and the same has been stayed by the Deputy Director of Education in view of pendency of the present petition.

13. As we have disposed off present petition today, there is no impediment in proceeding with the said enquiry initiated by respondent No.2, as per the provisions of law.

(S. G. MEHARE, J.)

(A.S. GADKARI, J.)

JPC