

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

931 WRIT PETITION NO.11386 OF 2021
WITH WP/12454/2019

SAYYED IMRAN SAYYED MOINUDDIN SAYYED
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. S. S. Deshmukh (in WP 11386/21)
AGP for Respondent Nos. 1 & 2 : Mr. S.G. Sangle (in WP 11386/21)
Advocate for Respondent No.3 : Mr. S. S. Dargad h/f Mr.
S.G. Chapalgaonkar (in WP 11386/21)
Advocate for Petitioner : Mr. N. L. Jadhav (in WP 12454/19)
AGP for Respondent Nos.1 to 4 : Mr. S. G. Sangle (in WP 12454/19)
Advocate for Respondent Nos.6 to 8:Mr. R. J. Godbole
(in WP 12454/19)
Advocate for Respondent No.5 : Mr. S. S. Deshmukh

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**CORAM : RAVINDRA V. GHUGE &
SANDIPKUMAR C. MORE, JJ.**

DATED : 09/06/2022.

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PER COURT:

1. In the first petition, the petitioner is an employee who is aggrieved that the Education Officer is not granting approval and not deciding his proposal, as the second writ petition filed by a rival faction of the same trust, is pending.

2. In the first petition filed by the employee, he has putforth prayer clause B and C as under;

B) By issuing a writ of mandamus or any other

appropriate writ, order or direction in the like nature, quash and set aside the impugned communication dated 22/07/2021, issued by the Education Officer, refusing to accord permanent approval to the services of the petitioner with further direction to accord permanent approval to the services of the petitioner forthwith:

- C) During the pendency and final disposal of this Writ Petition the respondent be directed to accord permanent approval to the services of the petitioner with future direction to release the salary of the petitioner in regular pay-scale periodically and for that purpose issue necessary directions.

3. In the second petition filed by a rival faction of the Education Trust claiming to be the authorized body, prayer clause "C, D and E" have been put forth which read as under;

- C) The approval dated 19/09/2019 bearing No.Ma-vi /RMT/17-18/2088 granted by the Education Officer (Secondary) Zilla Parishad, Beed, to the appointment of respondent No.5, may kindly be quashed and set aside;
- D) Pending the hearing and final disposal of the Writ Petition, the approval dated 19/09/2019 bearing No. Ma-vi/RMT/17-18/2088 granted

by the Education Officer (Secondary) Zilla Parishad, Beed, to the appointment of respondent No.5, may kindly be stayed;

- E) Pending hearing and final disposal of this writ petition, the respondent No.4 Education Officer, (Secondary) Zilla Parishad, Beed, may kindly be restrained from paying the salary of Respondent No.5, as a Shikshan Sevak;

4. It is undisputed that the petitioner was working initially as a Shikshan Sevak with the qualifications of B.A. B.Ed. and T.E.T. Temporary approval was accorded to his service and he worked from 11/08/2017 to 10/08/2020. Even today, he continues to work and as he has completed three years as a Shikshan Sevak, he would now be eligible to perform duties as an assistant trained teacher.

5. It is equally undisputed that there are two groups in the same management. One group is represented by advocate Jadhav and another group is represented by Dr. Godbole. Both these groups are busy in litigation in several matters pending before the learned Single Judge of this Court.

6. The petitioner in the second petition prays that employee should not be paid any salary till the dispute between the two groups is resolved. We find such prayer to be atrocious. In so far as the qualifications of the petitioner are concerned, we find that he is well

qualified.

7. We are of the view that the battle between the two groups of the management for supremacy might take an unspecified duration of time and till then, we would not appreciate the petitioner being made to work without salary.

8. The two factions before us are agreeable that the Education Officer should decide the proposal of the employee (petitioner in the first petition) by going through the record available, by taking the assistance of the present Headmaster and strictly in accordance with the MEPS Act and Rules. This would be notwithstanding the litigation between the two groups, which would be decided by the competent Court.

9. As such, both these petitions are disposed off with the following directions :

A) The impugned communication dated 22/07/2021 issued by the Education Officer by which he has refused to deal with the proposal for approval of the employee, is quashed and set aside.

B) The Education Officer shall take up the proposal of the petitioner employee namely Shri Sayyed Imran s/o Sayyed Moinuddin Sayyed for consideration for grant of approval.

C) The Education Officer is at liberty to take

the assistance of the Headmaster of the said school, who shall co-operate whole heartedly enabling the Education Officer to take a decision on the proposal.

D) The Education Officer shall decide the said proposal as expeditiously as possible and in any case, on or before 25/08/2022 strictly on the basis of the record available and the provisions of the MEPS Act and the Rules and applicable Government Resolutions, which permit the Headmaster (in the backdrop of a battle between two factions of the management), to administer the school.

E) Needless to state, if permanent approval is granted to the petitioner, he would be entitled for all arrears of salary as per the scale applicable and regular salary.

(SANDIPKUMAR C. MORE, J.)

(RAVINDRA V. GHUGE, J.)