

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

WRIT PETITION NO.9686 OF 2022

Shaikh Rashid Shaikh Ibrahim Manyar

VERSUS

The Union Of India Through Its Secretary And Others

AND

WRIT PETITION NO.10161 OF 2022

Narendra Vithalsing Girase

VERSUS

The Union Of India Through Its Secretary And Others

AND

WRIT PETITION NO.10162 OF 2022

Kishor Namdev Mahale

VERSUS

The Union Of India Through Its Secretary And Others

AND

WRIT PETITION NO.:9687 OF 2022

Dnyaneshwar Pandurang Pawar

VERSUS

The Union Of India Through Its Secretary And Others

AND

WRIT PETITION NO.:9718 OF 2022

Ganesh Shivaji Shinde

VERSUS

The Union Of India Through Its Secretary And Others

AND
WRIT PETITION NO.:9721 OF 2022

Kunal Dagadu Thakare
VERSUS
The Union Of India Through Its Secretary And Others

AND
WRIT PETITION NO.:9722 OF 2022

Dnyaneshwar Khushal Mali
VERSUS
The Union Of India Through Its Secretary And Others

AND
WRIT PETITION NO.:9732 OF 2022

Bharat Ramdas Marathe
VERSUS
The Union Of India Through Its Secretary And Others

AND
WRIT PETITION NO.10160 OF 2022

Jagdish Ramdas Marathe
VERSUS
The Union Of India Through Its Secretary And Others

...
Ms.Kazi Sabahat T., Advocate for the Petitioners.

Shri R.B. Bagul, Shri R.R. Bangar, Shri S.S. Deve, Ms.Sudha Kulthe (Chintamani), Ms.Nikita Gore, Shri D.B. Gaikwad, Ms.Dipali Jape (Ansingakar), Standing Counsel for the respondent/ Union of India in the respective petitions.

Shri S.G. Karlekar, Shri S.G. Sangle, Shri A.R. Kale, Shri P.S. Patil, Shri S.K. Tambe, AGPs for the respondent/ State authorities in the respective petitions.

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

DATE :- 30th September, 2022

Per Court :-

1. All these matters are taken up together for hearing, by consent of the parties.

2. Since Respondent No.6 is not a contesting Respondent and it is the State Government which has to deal with the grievance of the Petitioners, that we have not issued notice to Respondent No.6.

3. The contesting Respondent in these matters is the State Government, in the light of the Judgment dated 28.04.2022, passed by this Court at Nagpur in Writ Petition No.3696 of 2018, filed by ***Mrs. Chitra w/o Jagdish Mehar Vs. Union of India*** and others and connected group of matters.

4. Since the prayers put-forth by the identically placed Petitioners are almost identical, we are reproducing prayer clauses 'B' and 'C' set out in Writ Petition No.9686 of 2022,

hereunder:-

- “B) *By issuing any appropriate writ, order or directions in the like nature, the respondents may kindly be directed to pay the entire arrears of salary with the interest of the petitioner in accordance with law and consequently pay the regular monthly salary of the petitioner and for that purpose necessary orders be passed.*
- C) *By issuing any appropriate writ, order or directions in the like nature, the respondents may kindly be directed to pay Rs.75000/- per month as an ad-hoc payment in view of order passed in Writ Petition No.3696/2018 along with other companion writ petition by the Hon’ble High Court Bench at Nagpur till the disposal of this writ petition.”*

5. In the Judgment dated 28.04.2022, delivered at Nagpur in Writ Petition No.3696 of 2018, this Court has held in Paragraph Nos.1 to 17, as under:-

“In this group of petitions, the Petitioners are Special Teachers qualified to teach differently-abled and special children in the Schools, which are conducted to impart education to such children under the schemes. The Petitioners in these petitions have been appointed on various dates on different pay scales and some Petitioners, according to the State Government, on honorarium, which the Petitioners dispute. For a considerable period of time, the Petitioners have been working. Some of the Petitioners were appointed on a condition that within stipulated period, they will acquire necessary qualification, which they acquired.

2. *The Petitioners' services were sought to be terminated in the year 2015. Writ petitions were*

filed in this Court (Aurangabad Bench) where termination orders were recalled and the Petitioners were continued in service. Their lists were also published.

3. *Though there are different facts in each of the petitions as there are different Petitioners, common grievance is about non payment of their dues and salary.*

4. *On earlier dates, we had directed the Petitioners to submit a chart of their details. Ms. Kalyani Deshpande, learned Assistant Government Pleader states that each case would be examined and seeks time. The learned Counsel for the parties make a serious grievance that the State Government in these matters has been simply taking time and is not paying heed to the plight of the Petitioners.*

5. *While we are inclined to grant time to the State Government, we have to note that the Petitioners are without salary now for more than four years. Grievance is made by some of the Petitioners that they are made to do work other than teaching, and it is extremely difficult for them to survive. It is also informed that one of the Teachers had committed suicide out of frustration. It is not necessary for us to detail the facts of the Petitioners' case for this order and only the earlier orders passed in these petitions would suffice.*

6. *On 10 December 2019, the Division Bench passed the following order :*

“ Petitioners in all these petitions are the special teachers appointed for teaching differently abled and special children in the school under two schemes "Integrated Education Scheme for the differently-abled and special children and (Inclusive Education for Disabled at Secondary Stage) of the Central Government.

Under these schemes, the salaries payable to the special teachers are funded by the Central Government and State Government in 60:40

proportion, which is the position obtaining today, although the position earlier was that Central Government used to fund entirely for salary of the special teachers.

During the interregnum there was a dispute regarding approval granted to the appointments of these special teachers. The matter went before the High Court and on the directions given by Co-ordinate Bench of this Court at Aurangabad, those teachers, whose approvals were in dispute and whose services had been terminated, were directed to be reinstated in services and the Director Education was directed to consider the question of legality of the approval granted to those teachers. There were also teachers, whose appointments were later on duly approved. But, the result of litigation was that all these teachers were not paid arrears of salary.

Aurangabad Bench of this Court, while directing reinstatement in service of teachers, specifically directed that these teachers be paid regular salary, if they were working.

The position today is that according to the petitioners, although they are working, they are not being paid salary and now arrears of salary have mounted up.

Dealing with the question of payment of arrears of salary in order to grant immediate relief to the petitioners, this Court in W.P. No.3696/18 and also other petitions being Nos. 4682/15, 4657/15, 4658/15 and 4674/15 and also the other connected petitions directed that at least 50% of the arrears of salary due to the respective petitioners be paid and State Government was directed to release the funds to these petitioners.

Later on, in Writ Petition No.3202/2019, this is also a petition of similarly situated special teacher, on the statement made by learned AGP on instructions, it has been directed that as the share of the State Government was 40% in the funds received under both the schemes, the State Government would to pay arrears of salary to the extent of its said share. It was made applicable to all the similarly situated special

teachers. This would mean that later on, the direction of payment of 50% of arrears of salary came to be modified and it was restricted to 100% portion of the 40% share of the State in both the schemes.

Smt. Kalyani Deshpande, learned AGP on instructions submits that now State has released its complete share in the scheme and the funds are lying with the Director Education Pune. She further submits, on instructions, that the Director Education Pune has given directions to the respective Education Officer to verify the claims of each of the special teachers and submit a report to him so that salary with arrears of salary could be released to these special teachers. She further submits that this process would take some time and therefore, she makes a request for grant of further three weeks time in the matter. The request is opposed by learned counsel for the respective petitioners.

Already we have granted more than sufficient time to the Director Education, Pune for releasing the salary including arrears of salary as per the statement made before this Court on 16.10.2019 and recorded in W.P.No.3202/2019 and therefore, it would not be possible for this Court to grant as much time as is prayed for by learned AGP for respondents/State today.

The only time that could be granted on extension by this Court would be of only ten days more. Accordingly, we grant further ten days of time to the Director Education, Pune to release the salary including arrears of salary to all the similarly situated special teachers, failing which, the salary for the month of December, 2019 and further months payable to the Director Education, Pune shall not be released.

Authenticated copy of the order be furnished to learned AGP for respondents/State.

Stand over to 20th December, 2019.”

(emphasis supplied)

7. Thereafter on 20 December 2019, order was passed as under :

“Learned Counsel for the petitioners points out that the salary has not been released in compliance with the order dated 10/12/2019 passed by this Court.

Learned Assistant Government Pleader appearing for respondent no.3 submits that there are some difficulties being faced by respondent no.3 and therefore, she is seeking further time of ten days for compliance of the order dated 10/12/2019.

The order passed on 10/12/2019 being specific and self-explanatory, request made on behalf of respondent no.3 is rejected.

We direct that till the salary is not paid to the petitioners, in terms of the order passed by this Court in this matter, the salary payable to respondent no.3 – The Director (Primary), Pune shall not be released.

Copy of the order be sent to the office of Accountant General, Mumbai for compliance. It shall be forwarded to the Chief Secretary of the State Government for necessary action in this matter.

Place this matter on 17/01/2020.

Steno copy of this order be supplied to the learned Assistant Government Pleader.”

(emphasis supplied)

8. Thereafter on 24 March 2019, following order was passed :

“Hearing is conducted through Video Conferencing and all the learned Advocates agreed that the audio and visual quality was proper.

2. Heard.

3. It appears that even today, the stand of the Director of Education, Pune is not clear. There is no explanation coming forth as to why a period of one year and three months was not enough for him to complete the verification process so that the withheld salary of the State Government could be released to the petitioners and other similarly affected persons, as part of their respective salaries. It is also not known if even Director of Education Pune is

experiencing any difficulty in completing the verification process and complying with the order of this Court passed on 10th December, 2019.

4. Learned A.G.P. to seek instructions in the matter. Director of Education, Pune may file an additional affidavit clarifying all these issues.

5. Stand over to 30th March, 2021 at 10:30 a.m.”

(emphasis supplied)

9. On 30 March 2021, the Division Bench issued the following directions :

“Heard.

2. By these applications, review of the order passed by this Court on 20.12.2019 has been sought. The ground taken is that there is substantial compliance of the said order. However, the learned counsel for the petitioners, upon the appropriate instructions, submits that there is no such compliance with the direction given by this Court vide its order dated 10.12.2019. This fact is also not disputed by the Education Department to a large extent. What is seen, from these applications and the documents filed along with these applications and also affidavit filed today that there is no such total compliance with the directions given by this Court on 10.12.2019. It is also seen that now a different stand is being taken by the Education Department by saying that many of the teachers did not co-operate with the Education Department for the purpose of verification of their claims. These statements appear to be misleading as the claim made by the teachers pertains to the arrears of their salary from the period from 2014 to March, 2018 and the Education Department has released salary of the teachers for the period from October 2019 to March 2020 and that too, in respect of 83 teachers by releasing amount of Rs.1,24,00,000/- and depositing the amounts which were due and payable to each of the teachers out of the said amount to their respective accounts. If the department is coming out with a new stand

which the department says is based upon such facts and circumstances as not placed before this Court, the department would have to think of having the order passed by this Court on 10.12.2019 modified or reviewed appropriately, if it is permissible in law. But, the department has not done that so far. In the result, the applications are found to be not maintainable and are, therefore, dismissed. No costs.”
(emphasis supplied)

10. On 27 April 2021 the Division Bench granted status quo in relation to the status of the Petitioners as Special Teachers. In view of this order, the State Government cannot contend that the Petitioners are not in service. In view of these orders, entitlement of the Petitioners cannot be disputed at this stage.

11. Despite the above orders, no payment is forthcoming from the State Government. The callousness and insensitivity shown by the officers of the State Government is shocking and apart from defiance to the orders of this Court. Despite this Court directing that salary of Director (Primary) be withheld for non compliance of the orders, nothing is done by the State Government except changing the Director (Primary) and keeping that post being occupied by In-charge to avoid the orders of the Court. None of these orders have been challenged by the State and are simply ignored.

12. The Respondent State Government is disputing that some of the Petitioners are entitled to monthly salary stating that they are entitled to honorarium. While calculations as to the exact quantum of dues of the Petitioners till date may go on, an order of payment of a certain amount to the Petitioners is necessary for their survival.

13. According to us, in light of these orders passed, which have gone unchallenged, the least the State Government could do is to pay an amount on ad hoc basis

subject to outcome of these petitions for survival of the Petitioners.

14. We are informed that the monthly salary of each of the Petitioners would be between the range of Rs.80,000/- and Rs.90,000/-. Therefore, for this interim order, the ad hoc amount can be fixed at Rs.75,000/- (rupees seventy-five thousand) per month. We intend to direct the State Government to commence payment of rupees seventy-five thousand per month to each of the Petitioners starting from 1 April 2022 till disposal of these petitions on ad hoc basis subject to further directions and calculations to be made in these petitions. As regards the contention of the State Government that some of the Petitioners would be entitled to amount less than rupees seventy-five thousand per month is concerned, since we intend to direct that it will be subject to further adjustments and orders, it is not necessary to deviate from this figure.

15. To ensure compliance, we will have to place the responsibility to ensure that these amounts are paid monthly to the Petitioners on the Secretary of School Education and Sports Department, Mantralaya, Mumbai. We are informed that currently Shri Ranjit Singh Deol is the incumbent. This is necessary in view of the disobedience of the officers of the State. The officers' obstinately defiance is such that even the learned Assistant Government Pleader makes a grievance that very little cooperation is received from the Education Department in this matters. This is something the learned Advocate General should look into.

16. Accordingly, by way of interim order in these petitions, we direct:

(i) That the Respondent State of Maharashtra will forthwith pay to each of the Petitioners Rs.75,000/- (rupees seventy-five thousand) per month as an ad hoc payment subject to further orders, adjustment etc, commencing from 1 April 2022 on every 15th day of

the month till further orders. The amount shall be credited directly in the accounts of the Petitioners.

(ii) We place the responsibility of ensuring compliance of this order is on Mr. Ranjit Singh Deol, as the Secretary, School Education and Sports Department, Mantralaya, Mumbai.

(iii) If the incumbent Secretary is changed, the Respondent State Government will file an affidavit placing the name of the Secretary on record, who would then be responsible for ensuring compliance.

(iv) Registry of this Court and Office of Government Pleader will ensure that this order is placed before Mr. Ranjit Singh Deol, the Secretary of the School Education and Sports Department, personally and his acknowledgement is obtained on the notice to be returned to the court and kept in the file of this cases..

(v) We trust that Mr. Deol, the Secretary and his successor, if any, as Secretary of the School Education and Sports Department will ensure compliance with this order so as to avoid any action in contempt jurisdiction of this Court.

17. A copy of this order will also be sent to the learned Advocate General so that the learned Advocate General can look into this issue of grievance made the office of the government pleader against the officers of the education department..”

6. As an identical group of Petitions as well as Contempt Petitions came up before this Court in Contempt Petition No.264 of 2017 and connected matters, (***Trupti Shivaji Sarjine Vs. The Union of India and others***), this Court passed an order on 01.07.2022, as under:-

“01. We have considered our earlier orders. The learned AGP informs that the Secretary, School Education and Sports Department, Mantralaya,

Mumbai, Mr. Ranjit Singh Deol is present in the Court. An affidavit-in-reply dated 01.07.2022 has been filed, which we have considered.

02. Keeping in view the order that we are passing, we need not advert to the entire details as regards the counter submissions of the litigating parties and the contentious issues.

03. In view of the above, we record the statements made by the purported contemnor through the learned AGP and in the light of the affidavit, as under :-

a) The petitioners would prepare their calculations as regards the arrears as well as the salary structures, within 15 days from today and submit the same to the Dy. Director of Education, Aurangabad.

b) The respondents/authorities shall collect similar data from other similarly situated petitioners/candidates, who have/have not approached the Court and the collection of such data would be completed by 30th September, 2022.

c) The respondents shall conduct the verification exercise by comparing the data received from the candidates/petitioners and the data prepared by their own departments and thereafter confirm the records as regards the pay-scales of these candidates/ petitioners and the arrears of amount they have to be paid. This exercise will be concluded by 15th November, 2022.

d) Pursuant to the above, the payment of the arrears would be commenced and would be concluded by 31st January, 2023.

e) In those cases, which are undisputed as on date, the respondents agree to commence their regular monthly salary within 15 days.

f) Needless to state, after the above exercise is completed, if any of the petitioners or similarly situated candidate/s is/are aggrieved by the calculations and the amounts paid, they would be at

liberty to avail of a remedy as may be permissible in law.

4. *In view of the above statements made to the Court, the Contempt Petitions stand disposed off.”*

7. The learned AGP and the Standing Counsel for the Union of India agree that these Petitioners before us are identically placed with Mrs. Chitra w/o Jagdish Mehar Vs. Union of India and others and Trupti Shivaji Sarjine Vs. The Union of India and others.

8. Since the Petitioners are identically placed and the cause of action is also identical and more particularly keeping in view the affidavit dated 01.07.2022 filed by Shri Ranjit Singh Deol, Secretary, School Education and Sports Department, Mantralaya in the Contempt Petitions, that we are of the view that the directions issued at Nagpur as well as at Aurangabad, could be made applicable to all these Petitioners.

9. In view of the above, these Writ Petitions are disposed off with the following directions:-

A] The ready reference chart of calculations produced in these Petitions at the last page with the title 'प्रपत्र—ब', contains the calculations of the Petitioners

and refers to their arrears as well as the salary structures / fixation. These calculations would be considered by the Deputy Director of Education, Nashik.

- B] The Respondents / authorities shall collect similar data from other similarly situated Petitioners / candidates, who have / have not approached the Court and the collection of such data would be completed by 30.11.2022.
- C] Thereafter, the Respondents shall conduct the verification exercise by comparing the data received from the candidates / Petitioners and the data prepared by their own departments and then confirm the records as regards the pay-scales of these candidates / Petitioners and the arrears of amount they have to be paid. This exercise will be concluded by 15.01.2023.
- D] Pursuant to the above, the payment of the arrears would be commenced and would be concluded by 31.03.2023.
- E] In those cases, which are undisputed as on date, the

Respondents agree to commence their regular monthly salary within 30 days.

F] Needless to state, after the above exercise is completed, if any of the Petitioners or similarly situated candidate/s is/are aggrieved by the calculations and the amounts paid, they would be at liberty to avail of a remedy as may be permissible in law.

kps (ARUN R. PEDNEKER, J.) (RAVINDRA V. GHUGE, J.)