

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4136 OF 2018

Shamim Mohammad Rafik Shaikh

...Petitioner

Versus

The State of Maharashtra

Thr. Principal Secretary & Ors.

...Respondents

Mr.S.B. Talekar i/b Talekar & Associates for the Petitioner.

Mr.V.M. Mali, AGP for the Respondent No.1 -State.

Mr.Ashok Tajane a/w Mr.Yogesh Thorat for Respondent No.4.

CORAM : S.V. GANGAPURWALA &
S.M. MODAK, JJ.

DATE : 13 JULY 2022

P.C:-

. We have heard the learned counsel for the Petitioner, learned AGP for Respondent No.1 -State and learned counsel for Respondent No.4. None appears for Respondent No.3.

2. The Petitioner assailed the communication dated 28-8-2017 issued by District Social Welfare Officer (page No.63). Under the said Communication the untrained teachers are directed to obtain the qualification of D.E.I.E.D./DSE(MR)/DSE(HI)/DSE(VI).

3. The learned counsel for the Petitioner submits that

the Petitioner possesses D.Ed. qualification in Hearing Impaired. The Petitioner is required to be considered as a trained teacher.

4. The affidavit is filed by the District Social Welfare Officer. Paragraph Nos.12, 13 and 14 of the affidavit read thus:-

“12. That, the Respondent No.3 the District Social Welfare Officer, Zilla Parishad, Solapur issued a letter dated 28.08.2017 directing untrained teachers to compete D.Ed. Hearing Impaired) Diploma in Special Education in Mentally Retardation/Diploma in Special Education in Hearing Impaired/Diploma in Special Education in Blind i.e. Visually Impaired Till 31.03.2019.

13. That, taking the misinterpretation of the said letter dated 28.08.2017, Respondent No.4 letter dated 14.09.2017 directed the petitioner to acquire the said qualification on or before 31.03.2019 failing which her services would be terminated.

14. I submit that, the said letter is only for candidate who were untrained teachers and not for candidates like petitioner who had acquired necessary qualification as per directions of the Hon’ble Court.”

5. The learned counsel also referred to the judgment of this Court in WP No.2608 of 1999 decided on 25-07-2000 and another judgment in case of **Jayshree Manohar Kale V/s. State of Maharashtra & Ors.¹**. It is submitted that the Petitioner therein completed the Bridge Course. The Court held that the refusal to

1 2006(2) Mh.L.J. 537

retain the Petitioner in service is unwarranted and unsustainable.

6. In light of the aforesaid facts, the Petitioner be considered as a trained teacher, necessary consequential are follows.

7. The Write Petition is disposed of. No costs.

(S.M. MODAK, J.)

(S.V. GANGAPURWALA, J.)