

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Writ Petition No.3801 of 2015

Pagar Kailash Jalam ... Petitioner

v/s.

State of Maharashtra & others ... Respondents

Ms. Pooja R. Singh i/b Mr. N.R. Bubna, Advocate for the
Petitioner.

Mrs. P.J.Gavhane, AGP for the State.

**CORAM : S.V. Gangapurwala &
Madhav J. Jamdar, JJ.**

27th July 2022

P.C.

The learned Counsel for the Petitioner submits that Petitioner was appointed in the year 1999. The services of the Petitioner were regularised in the year 2006. The Petitioner possessed at the relevant time the qualification of B.A.C.T.C. As the Petitioner possessed the qualification required, the Petitioner was entitled to be considered as a trained teacher and Petitioner

was accorded the salary of trained teacher. According to learned Counsel under the impugned communication the Petitioner is held to be untrained and the recovery is also sought. The learned Counsel submits that subsequently in the year 2014, the Petitioner has acquired D.Ed. qualification also.

2. Learned AGP submits that as the Petitioner does not possess the qualification of a trained teacher, the impugned order has been rightly passed. The C.T.C. certificate cannot be at par with D.Ed. qualification.

3. The impugned order is passed on the premise that C.T.C. qualification cannot be on par with D.Ed. qualification. It is not clear that whether the Petitioner was appointed as a primary teacher or as an Arts teacher.

4. The Petitioner claims to have acquired D.Ed. qualification in the year 2014.

5. The salary paid to the Petitioner as a trained teacher was not upon the misrepresentation by the Petitioner. The State regularised more than 1433 teachers whose appointments were irregular and at that time the Petitioner was also regularised and

awarded the pay scale of trained teacher. The Petitioner is a Class-III employee. The recovery is sought to be claimed after lapse of eight to ten years.

6. In the aforesaid facts and in view of the Judgment of the Apex Court in the case of *State of Punjab v/s. Rafiq Masih (White Washer)*¹, we pass the following order.

(i) The impugned order to the extent of recovery is set aside.

(ii) The Petitioner may bring it to the notice of the Authority the qualification possessed by the Petitioner.

(iii) The Respondent Authority shall consider the qualification possessed by the Petitioner and from the date the Petitioner has acquired the necessary qualification, he shall be treated as a trained teacher.

(iv) The Petitioner shall produce all the documents before the Respondent No.2 within six weeks from today. The Respondent No.2 thereafter shall take decision whether the Petitioner is a trained teacher or otherwise.

1 (2015) 4 SCC 334

(v) Writ Petition is accordingly disposed of. No costs.

(Madhav J. Jamdar, J)

(S.V.Gangapurwala, J)

Lata Panjwani, P.S.