

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4601/2019

(SHANKAR NARAYAN UDATE **VERSUS** THE COMMISSIONER, HANDICAP WELFARE DEPARTMENT,
MAHARASHTRA STATE, PUNE-1 & OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Ms S.S. Dashputre, counsel for the petitioner.
Shri N.R. Patil, Assistant Government Pleader for the R-1 to 3.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : JULY 11, 2022.

The challenge raised in this writ petition is to the Corrigendum dated 01.01.2019 issued by the District Social Welfare Officer, Zilla Parishad, Nagpur seeking to recover the excess payments made to the petitioner towards increment.

The petitioner was employed as a teaching staff in one Shri Sai Chhaya Deaf and Dumb School, Hinganghat, District Wardha. By an order dated 06.02.2013, the license that was granted to the said School to operate from 11.03.1999 was not renewed after 31.03.2012. The recognition of that School accordingly was cancelled from 01.04.2012. According to the petitioner, having discharged duties from 01.04.2012 to 06.02.2013 he was entitled to receive the salary as well as increment for that period. Since the present petitioner alongwith other staff members were not paid their salaries for the aforesaid period they had filed Writ Petition No.6438 of 2016. This Court on 21.03.2021 permitted the petitioners therein to make a representation which representation was ultimately rejected by the Commissioner, Handicap Welfare Department, Pune on 29.06.2018.

The present petitioner alongwith other employees had challenged that order in Writ Petition No.678 of 2019. Since it was found that the Management whose license had been cancelled had not challenged the order dated 29.06.2018, it was held that the liability to pay salary for the period from 01.04.2012 to 06.02.2013 could not be saddled on the Department and that the petitioners therein were free to recovery the same from the Management.

Herein, prior to the petitioner's superannuation on 28.02.2019 the District Social Welfare Officer has sought to recover the increment paid to the petitioner in excess. We find that the adjudication of Writ Petition No.678 of 2019 would also govern the present situation and it would be for the petitioner to recover such increment from the erstwhile Management of Shri Sai Chhaya Deaf and Dumb School. The recovery in question having been initiated prior to the petitioner's superannuation and copy of the impugned communication having been issued to the petitioner as well, we do not find anything illegal in the impugned communication dated 01.01.2019. With liberty to the petitioner to recover the amount of increment to which he is entitled from the erstwhile Management, the writ petition stands dismissed with no order as to costs.

(URMILA JOSHI-PHALKE, J.)

(A. S. CHANDURKAR, J.)

APTE