

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

WRIT PETITION NO.5512 of 2018

1. Millat Education Society (Talegaon),
Darwha, District Yavatmal, through its
President Muhammad Ilyas,
Aged about 57 years,
R/o. Railway Station Road,
Darwha, Ta. Darwha District Yavatmal.
2. Manikrao Thakre Urdu Upper Primary School,
Darwha, through its Headmaster
Sumaiya Sadaf Mohd. Ilyas,
Aged about 29 years, Occ. Service,
R/o. Railway Station Road, Darwha,
Ta. Darwha, District Yavatmal.
3. Sadaf Naz Mirza Niyaz Baig,
Aged about 33 years, Occ. Service,
R/o. C/o Manikrao Thakre Urdu Upper
Primary School, Darwha, District Yavatmal.
4. Ilyas Ahmad Khan Ajaz Khan,
Aged about 32 years, Occ. Service,
R/o. C/o Manikrao Thakre Urdu Upper
Primary School, Darwha, District Yavatmal.

..... **PETITIONERS**

...V E R S U S...

1. The Commissioner,
School Education Department,
Bal Bharti Bhawan, Senapati Bapat Road,
Pune.
2. The Director of Education (Primary),
Maharashtra State, Central Wing,
1st floor, Dr. Annie Besant Road, Pune.

3. The Deputy Director of Education,
Amravati Division, Amravati.
4. The Education Officer(Primary),
Zilla Parishad, Yavatmal.
5. The Superintendent (Primary Education)
Pay Unit and Future Disbursement Office,
Yavatmal.

..... **RESPONDENTS**

Shri A.I.Sheikh, Advocate for petitioners.

Ms N. P. Mehta, Assistant Government Pleader for respondent nos. 1 to 3 and 5.

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

DATE :- AUGUST 11, 2022.

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The petitioners nos. 1 and 2 had issued an advertisement on 16.07.2014 inviting applications for filling in post of two Shikshan Sevaks. The said advertisement was noticed by the petitioners nos. 3 and 4 and they applied pursuant to the same. The petitioner nos. 3 and 4 were granted appointment on 06.08.2014. The initial approval to their appointment on non-grant basis was granted on 09.09.2014. On completion of the period of

probation, there appointments were approved on grant-in-aid posts from 11.08.2016. Thereafter 'Shalarth' Id was issued to both of them on 28.05.2018. The petitioner nos. 3 and 4 sought disbursement of their salaries pursuant to the approval granted to their appointment on grant-in-aid basis. The Superintendent of Pay Unit (Primary) refused to release the salary by the impugned order dated 22.06.2018 on the ground that the staffing pattern for the years 2011-12 and 2012-13 had not been submitted. Hence this writ petition.

3. During the pendency of the writ petition, the Deputy Director of Education, Amravati Division, Amravati on 25.10.2021 after verifying the facts has directed the Education Officer (Primary) as well as the Superintendent of Pay Unit (Primary) to release the salaries of the petitioner nos. 3 and 4 in the light of inclusion of their names in the 'Shalarth Pranali'. In view of that communication, this Court on 04.07.2022 had directed the respondent nos. 4 and 5 to file an affidavit indicating the period within which the salaries of the petitioner nos. 3 and 4 would be disbursed. Though the respondent no.5 has filed an affidavit on 15.07.2022, the period within which the salaries of the petitioners to be released has not been indicated. Instead the impugned communication dated 22.06.2018 is sought to be supported. We find that the said affidavit as filed does not comply with the directions

that were issued on 04.07.2022. The stand sought to be taken by the affidavit is contrary to the order passed by the Deputy Director of Education, Amravati Division, Amravati.

4. Considering the fact that the appointment of the petitioner nos. 3 and 4 has been approved in grant-in-aid basis from 11.08.2016, they would be entitled for salary from that date from the State Exchequer. This fact is also clear from the communication issued by the Deputy Director of Education, Amravati Division, Amravati on 25.10.2021.

5. In the light of the aforesaid, the following directions are issued:

(i) The respondent nos. 4 and 5 shall take all necessary steps to release the salaries of the petitioner nos. 3 and 4 from 11.08.2016 within a period of eight weeks from the receipt of copy of this judgment.

(ii) Since the respondent no.5 has not filed affidavit as directed, he shall pay costs of Rs.1,000/- each to the petitioners nos. 3 and 4 from his own pocket.

Rule is made absolute in aforesaid terms.

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)