

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

WRIT PETITION NO.5681 OF 2018

Sau. Shraddha w/o Dhananjay Begade

..Versus..

The Education Officer (Secondary), Zilla Parishad, Nagpur and others

WRIT PETITION NO.7153 OF 2018

Maharashtra Vidyalaya Society, Nagpur

..Versus..

The Education Officer (Secondary), Zilla Parishad, Nagpur and one

WRIT PETITION NO.7727 OF 2019

Sau. Shraddha w/o Dhananjay Begade

..Versus..

The Education Officer (Secondary), Zilla Parishad, Nagpur and others

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

Court's or Judge's orders

WRIT PETITION NOS.5681/2018 AND 7727/2019

Shri V.N. Patre, Advocate for the petitioner,
Ms. N.P. Mehta, A.G.P. for respondent no.1/State,
Shri B.G. Kulkarni, Advocate for respondent nos.2 and 3.

W.P. No.7153/2018

Shri B.G. Kulkarni, Advocate for the petitioner,
Ms. N.P. Mehta, A.G.P. for respondent no.1/State,
Shri V.N. Patre, Advocate for respondent no.2.

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Coram : A.S. Chandurkar and Smt. M.S. Jawalkar, JJ.
Dated : March 17, 2022.

The petitioner, who has filed Writ Petition Nos.5681/2018 and 7727/2019, was holding the post of Head Mistress at the school run by the petitioner in Writ Petition No.7153/2018. She was placed under suspension on 1.2.2018. However, the Management did not continue the enquiry and dropped the proceedings on 6.6.2018. Thereafter, fresh proceedings were initiated for holding another enquiry against the petitioner. As the Chief Executive Officer did not accept the name of the nominee

as proposed by the Head Mistress, she filed Writ Petition No.5681/2018 and by the order dated 4.9.2018, the Management was directed to proceed further with the Departmental Enquiry with Shri Warkar as nominee of the petitioner. During the period when the petitioner was under suspension which is from 2.2.2018 to 2.6.2018, she was not paid her salary and therefore she has filed Writ Petition No.7727/2019.

2. The Education Officer (Secondary), Zilla Parishad on 17.10.2018 directed the Management to take the said employee in service and permit her to discharge duties. The Management being aggrieved by this communication has filed Writ Petition No.7153/2018. By the order dated 24.10.2018, this Court stayed the order passed by the Education Officer dated 17.10.2018. During the pendency of the proceedings, the Head Mistress retired on attaining the age of superannuation on 31.10.2019. In Writ Petition No.5681/2018, the petitioner has filed Civil Application (CAW) No.1811/2021 praying that the Management be directed to prepare her pension case and forward the same to the Education Officer for its sanction. It is stated that as the petitioner has superannuated, the enquiry cannot be held against her. In reply to the Civil Application, the Management has stated that it was agreeable for discontinuing the departmental proceeding to enable the employee to receive pension. It is further stated that the salary bills for the period from 2.2.2018 to 2.6.2018 and from 6.6.2018 to 31.10.2019 would be submitted to the Education Officer for releasing the same. This is for the reason that during that period no other employee had occupied the post of the concerned employee. In that regard, reliance is placed on the decisions in Writ Petition No.1861/2014

(Gunderao Suryabhan Gode .vs. Maha. Gramin Shikshan Sanstha) dated July 25, 2014, Writ Petition No.6682/2016 (Shrikrishna s/o Sitaram Dahare .vs. State of Maharashtra and others) dated January 08, 2018 and Writ Petition No.8/2019 (Maharashtra Gramhit Shikshan Sanstha, Nagpur and another .vs. Mrs. Sudha Narayan Wanjari and another) dated 7.1.2019.

3. In the light of these developments, the interests of justice would be served by permitting the following course to be followed :

As regards the question of arrears of salary of the petitioner, it is open for the Management to submit the pay bills in that regard to the Education Officer and pray for release of grants on the ground that the post in question remained unoccupied during that period. On such claim being made by the Management, the Education Officer shall consider the entitlement of the Management to receive said salary grants. If necessary, the Education Officer is free to hear the representatives of the Management as well as the Head Mistress in that regard. The Education Officer shall, within a period of four weeks from the receipt of the pay bills from the Management take a decision thereon and pass an order accordingly. Further, the pension case of the Head Mistress shall also be forwarded to the Education Officer along with all necessary papers. In case either of the parties are aggrieved by such adjudication, they are free take legal recourse in accordance with law. The writ petitions are disposed of in the aforesaid terms with no order as to costs.