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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

26 WRIT PETITION NO.9817 OF 2022

**RAKESH RAOSAHEB RAUT
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS CHIEF
SECRETARY AND OTHERS**

**AND
87 WRIT PETITION NO.444 OF 2023**

**TUSHAR DNYANESHWAR KECHE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS CHIEF
SECRETARY AND OTHERS**

....

Mr S. S. Thombre, Advocate for petitioners;
Mr S. G. Karlekar and Mr V. M. Kagne, A.G.Ps. for respondents/
State in respective petitions

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 16th January, 2023

PER COURT:

1. The petitioners in these two petitions are identically placed. Both are working as 'Assistant Teachers' in the Secondary and Higher Secondary Military School, respectively. A two fold grievance is brought before the Court with regard to, firstly, that these petitioners deserve a pay-scale on the principle of parity amongst the Assistant Teachers, and secondly, that the fixed

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stipend/honorarium of around Rs.9000/-, which was being paid, is not been paid for few months. In fact, in the first petition (Writ Petition No.9817/2022), the petitioner has not received even this fixed stipend/honorarium, at any time. The petitioner in the second petition (Writ Petition No.444/2023) was being paid regular salary in the pay-scale of an 'Assistant Teacher' until March 2022.

2. The learned A.G.P. submits on instructions, copy of which is placed before us, that the In-charge Deputy Director, Secondary and Higher Secondary Education, Directorate of Education, Pune, vide a communication dated 13/01/2023, has informed the under Secretary S.M.6, School Education and Sports Department, Mantralaya, Mumbai, that the budgetary provision will have to be made by the State Government for payment of stipend/salary/honorarium and the grant of pay-scale to such petitioners. The said communication is taken on record and marked as 'X-1' for identification. The contents of 'X-1' are reproduced as under :-

क्र. शिसमा/ २०२३/एस-५/सैनिकी स्कूल/न्याप्र/ 27.5 दिनांक :- १३/०१/२०२३.
मा. उच्च न्यायालय प्रकरण

प्रति,

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अवर सचिव, एस. एम. ६
शालेय शिक्षण व क्रीडा विभाग,
मंत्रालय, मुंबई-३२

विषय :- याचिका क्रमांक ९८१७/२०२२

श्री. राकेश रावसाहेब राऊत, बीड विरुद्ध
महाराष्ट्र शासन

संदर्भ :- शासन पत्र क्र. न्यायाप्र-२०२२/प्र.क्र.१२०/एस.एम-६
दि. ९ जानेवारी, २०२३.

उपरोक्त विषयास अनुसरून संदर्भाकित शासन पत्रातील निर्देशानुसार या न्यायप्रविष्ठ प्रकरणातील वस्तुस्थिती खालीलप्रमाणे आहे.

१. शासन निर्णय क्रमांक इसैशा-२०१७/(१८३/१७)/एसएम-६ दि. १९ नोव्हेंबर, २०१९ अन्वये सैनिकी शाळेतील आदिवासी विद्यार्थ्यांची संख्या लक्षात घेऊन राज्यातील ५ सैनिकी शाळांना सन २०१४-१५ पासून इयत्ता ११ वीच्या प्रत्येकी १ प्रमाणे ६ आदिवासी तुकड्या व सन २०१५-१६ पासून इयत्ता १२ वी च्या प्रत्येकी १ प्रमाणे २ आदिवासी तुकड्या धुळे व बुलढाणा जिल्ह्यासाठी अशा एकूण ८ आदिवासी तुकड्या मधील २३ शिक्षकीय पदे मानधनावर निर्माण करण्यास शासन मान्यता देण्यात आली.
२. सदर तुकड्यांसाठी त्या प्रथमच अनुदानावर येत असल्याने नवीन बाब प्रस्तावानुसार वेतन अनुदान देण्यापूर्वी विधानमंडळाची मान्यता घेणे आवश्यक होते. परंतू कोव्हिड-१९ च्या पार्श्वभूमीवर विधीमंडळ अधिवेशनामध्ये या नवीन बाबीचा समावेश न झाल्यामुळे संबंधित पदांसाठी वेतन अनुदानाची तरतूद उपलब्ध झाली नाही ही वस्तुस्थिती आहे सबब नजीकच्या मार्च २०२३ च्या अर्थसंकल्पिय अधिवेशनात खर्चाची नवीन बाब म्हणून तदर्थ मागणी प्रस्तावित करून ती विधानमंडळात मान्य झाल्यानंतर संबंधितांचे संदर्भाकित शासन

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निर्णयानुसार देय ठरणारे मानधन देणे शक्य होईल, ही वस्तुस्थिती विचारात घेऊन या प्रकरणात मा. उच्च न्यायालयासमोर विभागाचे म्हणणे शपथपत्र स्वरूपात दाखल करणे न्यायोचित ठरेल. सबब वरील वस्तुस्थिती संदर्भ क्र. १ मधील शासन पत्रातील सूचनेनुसार आपल्या मान्यतेस्तव सादर करण्यात येत आहे. सदर वस्तुस्थिती मान्य झाल्यास वरील मुद्यांवर मा उच्च न्यायालयात शपथपत्र दाखल करणे शक्य होईल. कृपया याबाबत आदेश व्हावेत ही विनंती.

(दिपक चवणे)

प्र. शिक्षण सहसंचालक

(माध्यमिक व उच्च माध्यमिक)

3. Considering the above, it goes without saying that, the Government has to take a decision, more specifically, in the light of the contents of paragraph 2 of 'X-1', which are reproduced above. Wages to the Assistant Teachers have to be at par on the principle of the parity, unless there is a specific distinguishing factor or a specific reason for granting a different pay-scale or an honorarium to such teachers. There has to be a justified reason for making a distinction. So also, the State needs to take a policy decision with regard to the five Military Schools operated in the State of Maharashtra since 2014-15 for the 11th standard. Such decision with regard to grant of financial sanction to the payment of stipend/salary/honorarium or pay-scales, needs to be arrived at

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expeditiously. The State, being a model employer, cannot expect the teachers to work without salary.

4. In view of the above, these two petitions are disposed off with the following directions :-

(a) The State authorities would take a decision as regards parity in pay-scales of these Assistant Teachers concerning the Military Schools in the State of Maharashtra, on or before 15/04/2023.

(b) The arrears, if any, will have to be paid, not only to these petitioners, but to all similarly situated/comparable Assistant Teachers, though they have not approached any Court, within a period of 60 days from the date of such decision.

(c) Notwithstanding the above, whatever may be the stipend/salary/honorarium, that may have been paid or may have been payable to such petitioners and similarly situated Assistant Teachers, the concerned departments would ensure that said stipend/salary/honorarium shall be paid to these Assistant Teachers regularly on month to month basis and

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arrears also be cleared within 45 days from today. The pending decision for financial sanction or taking a policy decision with regard to grant of pay-scales, would not be an impediment for clearing the arrears.

(d) In the event of any grievance of the petitioners or similarly situated employees, pursuant to the completion of the above exercise, they would be at liberty to take recourse to a remedy as may be permissible in law.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

sjk