

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

WRIT PETITION NO.7784 OF 2022

Shri. Santosh Shrimant Mane
Age-47 years, Occu : service,
r/a, 3/6, Ravivar Solapur-413005.

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.. Petitioner

Versus

1. The State of Maharashtra }
Through the Secretary, }
School Education and Sports Department, }
Having Office at mantralaya, }
Mumbai - 400 032. }
2. The Education Officer (Secondary) }
Z.P. Solapur-413002. }
3. The Superintendent, }
Pay and Provident Fund Unit Squad (Primary) }
Z.P. Solapur, }
Sahastrarjun Mangal Karyalay, Solapur-413001 }
4. The Dy. Director of Education, }
Pune Division, Pune }
17, Dr. Ambedkar Marg, infront of Red Temple }
Pune-411001. }
5. The President/Secretary, }
Onkar Krida Va Shikshan Prasarak Mandal, }
3/6, Ravivar, Solapur-413005 }
6. Shri. Gajanan Vidyalay, }
Vinayak Nagar, M.I.D.C. Road, }
Solapur-413006. }

...Respondents

**WITH
INTERIM APPLICATION NO.3671 OF 2022**

Shri. Nitin Nagesh Kamble
Age : 40 years, Occ.: Service,
R/o. 296/97, Shivganga Nagar,
Parshi Vihar, Kumtha Naka,
Solapur-413003.

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}..Applicant

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Mr. Shrishail Sakhare for the Petitioner
Mr. Anant Vadgaonkar for Applicant/Intervenor.
Ms. Rekha Musale for Respondent nos. 4 & 5.
Ms. Priyanka Chavan a/w Ms. Priya Mehra for Respondent Nos.2
& 3.
Mr. V. M. Mali, AGP for Respondent-State.

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**CORAM : A.S. CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ**

DATE : 30TH NOVEMBER, 2023.

ORAL JUDGMENT : (PER : A.S. CHANDURKAR, J)

1. Rule. Rule is made returnable forthwith and heard learned counsel for the parties. The Petitioner claims to have been appointed as an untrained Assistant Teacher. His appointment was approved pursuant to the order dated 22/01/2009. The period of approval on no grant basis was from 01/06/1996 to 30/06/2008. From 01/07/2008, he was shown on a sanctioned grant-in-post. Thereafter on 02/03/2016 his appointment was approved from 27/08/2015 onwards. The grievance of the Petitioner is that by communication dated 09/08/2021 his salary has been withheld by the order passed by the Education Officer

(Primary). According to the Education Officer, in view of a complaint received by his office on 10/02/2021 as regards validity of the Petitioner's appointment, an enquiry was contemplated to be held and hence, the Petitioner's salary was withheld.

2. Civil Application no.3671 of 2022 has been filed by the earlier Headmaster stating therein that the approval granted to the Petitioner does not appear to be genuine for the reason that the Petitioner passed his Higher Secondary School Certificate Examination in March 1993. Hence, the Petitioner could not have been appointed prior to the date. It is to be noted that on receipt of a complaint received by the Education Officer (Primary), a preliminary enquiry was held and report has now forwarded by the Education Officer of the Zilha Parishad.

3. In these facts, the interests of justice would be served by passing the following order.

ORDER

i) The Petitioner, the Headmaster of the School as well as the Applicant in Civil Application no.3671 of 2023 shall appear before the Education Officer (Primary) and place before him all relevant documents for consideration. The Education Officer

(Primary) shall consider all relevant material and take a decision thereafter as regards entitlement of the Petitioner to his salary. To enable such consideration the parties shall appear before the Education Officer (Primary) on 11/12/2023. Within a Period of 6 weeks from that date, the Education Officer (Primary) shall take decision on the aforesaid issue.

ii) Needless to state that any party aggrieved by such decision would be at liberty to challenge the same in accordance with law. All points raised are kept open.

4. Rule is disposed of in aforesaid terms. Interim Application is also disposed of.

[FIRDOSH P. POONIWALLA, J] [A.S. CHANDURKAR, J.]