

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

WRIT PETITION NO.2226 OF 2020

Smt.Vidya D/o Vijay Pawar

Age 43 years, Occu. Nil

R/o, At. Dhumalwadi, Post.Bhatshirgaon,

Tq. Shirala Dist. Sangli

..... Petitioner

Vs.

1. The State of Maharashtra
Through its Secretary,
School Education Department
Mantralaya, Mumbai – 32.

2. The Director, State of Maharashtra,
Training Department through letter,
Maharashtra Vdya Pradhikaran,
Sadashiv Peth, Pune – 1

3. The Chief Executive Officer,
Zilla Parishad, Sangli,
Tq. & Dist. Sangli.

4. The Education Officer
(Primary), Zilla Parishad,
Sangli.

5. Head Master,
Zilla Parishad Primary School,
Mangrul, Tq. Shirala,
District. Sangli.

..... Respondents

Ms.Anita Gavkar i/b Mr.S.K.Mathpati for the Petitioner

Ms.S.S.Bhende, A.G.P. for the Respondent nos.1 and 2

Mr.Abhinav A. Bhatkar i/b Mr.Vijay Killedar for the Respondent nos.3 & 4

**CORAM: SUNIL B. SHUKRE, J. &
 FIRDOSH P. POONIWALLA, J.**

DATED : 12th SEPTEMBER 2023

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.) :

1. Rule. Rule made returnable forthwith. With the consent of the parties taken up for final disposal.

2. By the order passed on 5th January 2018, the Petitioner was appointed as an Untrained Para Teacher for primary school students on the condition that she would obtain the qualification of D-Ed latest by 2019. However, by the order passed on 21st May 2019, the Zilla Parishad, Sangli terminated the service of the Petitioner on the ground that Petitioner did not obtain the requisite qualification till 31st March 2019. It is this order which has been questioned for its legality or otherwise in the petition.

3. On considering the facts of the present case, we find that the order impugned herein is unjust and arbitrary and the reasons therefore are given in ensuing paragraphs.

4. The undisputed facts of the present case indicate that after conditional appointment of the Petitioner as Untrained Para Teacher was made, the Petitioner made her efforts to secure her admission to D.Ed. course and for that matter by her letter dated 3rd November 2018, she requested the Chief Executive Officer, Zilla Parishad, Sangli to forward her application for admission to D.Ed. course through Zilla Parishad, Sangli. The difficulty of Petitioner was that she being an in-service candidate at

that point of time, the Petitioner could not have filed her application to get admission in D.Ed. course unless the application of the Petitioner was made through proper channel. The Petitioner in fact sought to send her application for D.Ed. course through the Chief Executive Officer of the Zilla Parishad, Sangli. But unfortunately, the Chief Executive Officer, Sangli did not respond to the request of the Petitioner in any manner, with the result that her application for getting admission to D.Ed. course gathered dust at Zilla Parishad, Sangli. These were the circumstances which prevented the Petitioner from obtaining the requisite qualification and these circumstances are the creation of Zilla Parishad, Sangli. The circumstances were in the nature of wrong committed by Zilla Parishad, Sangli. If Zilla Parishad, Sangli committed a wrong, the question would be could Zilla Parishad, Sangli take advantage of its own wrong? The answer is obviously NO.

5. Zilla Parishad, Sangli cannot say that Petitioner failed to obtain necessary qualification before 31st March 2019 and at the same time it cannot prevent the Petitioner from obtaining requisite qualification. Such being the position, the order impugned herein would have to be termed by us as unjust, arbitrary and illegal, which must go. In the result, petition is allowed.

6. Apart from what is stated above, during the interregnum, Petitioner has also obtained the necessary qualification of D.Ed. and as of now, the

Petitioner is a trained and qualified teacher and therefore, now there can be no impediment in regularizing the appointment of the Petitioner.

7. In the circumstances, we find that this Petition deserves to be allowed and it is allowed accordingly.

8. Impugned order is hereby quashed and set aside.

9. Respondent no.3 is directed to reinstate the Petitioner on the post of primary teacher in trained category within two weeks from the date of order which shall be done by granting notional seniority and fixation of applicable pay scale to the Petitioner .

10. We further direct that the pay fixation of the Petitioner shall be carried out by treating the Petitioner as primary teacher in trained category from the date she is reinstated. However, Petitioner shall not be entitled to receive any arrears of salary.

11. Rule is made absolute in above terms.

12. Writ Petition is disposed of accordingly.

(FIRDOSH P. POONIWALLA, J.)

(SUNIL B. SHUKRE, J.)