

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

WRIT PETITION NO. 4391 of 2023

1. Jyoti Shikshan Prasarak Mandal, Akola
through its President-Mr. Uttam s/o Baliramji Janolkar,
R/o. Vijay Housing Colony, Gorakshan Road,
Akola, District Akola.
2. Late Jyoti Janolkar Vidyalaya, Akola,
Through its Head Master,
Kapil Vastu Nagar, Gorakshan Road,
Akola, District Akola.

..... **PETITIONERS**

...VERSUS...

1. The State of Maharashtra,
Through the Chief Secretary of
Department of School Education,
Mantralaya, Madam Cama Road,
Mumbai-400 032.
2. The Education Officer (Secondary),
Zilla Parishad, Near Santoshi Mata Mandir,
Akola, Dist. Akola.

..... **RESPONDENTS**

Shri S.N.Tapadia, Advocate for petitioners.
Ms N. P. Mehta, Assistant Government Pleader for respondents.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 17th JULY, 2023

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

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

Ms N. P. Mehta, learned Assistant Government Pleader waives service for the respondents.

2. It is the case of the petitioners that one Shri Gajanan Tamaskar came to be appointed as 'Assistant Teacher' in the petitioner No.2-School on 24.06.1989. Since the post on which such appointment was made was reserved for the members of the Scheduled Caste category, the employee was required to submit his caste validity certificate. Since the caste validity certificate was not submitted, the petitioners terminated the services of the said employee on 30.04.2015. The School Tribunal however allowed the appeal on 13.08.2015 and ordered his reinstatement with back-wages. The services of the said employee came to be reinstated on 01.09.2015. It was the liability of the petitioners to pay back-wages from 01.05.2015 to 27.08.2015. In execution proceedings initiated by the said employee, the petitioners paid an amount of Rs.2,09,302/- towards such back-wages. The petitioners thereafter sought reimbursement of the back-wages and accordingly made representations dated 23.03.2023 and 20.05.2023 in that regard. In the said representations it has been stated that since the said employee was appointed on the said post, the petitioners were entitled for reimbursement.

3. Shri S.N.Tapadia, learned counsel for the petitioners by relying upon the judgment of this Court in Writ Petition No.6892 of 2015 (*Arpan Shikshan Prasarak Sanstha and anr. vs. The Education Officer (Primary), Zilla Parishad, Amravati*) decided on 26.09.2016 submits that the Education Officer (Secondary) ought to be directed to release the amount of aforesaid

back-wages.

4. We find that the petitioners having approached the Education Officer (Secondary) with their representations dated 23.03.2023 and 20.05.2023, the Education Officer (Secondary) can be directed to consider the said representations and take a decision thereon. If it is found that the petitioners are entitled to such reimbursement on the basis of the claim as made, the Education Officer (Secondary) shall do the needful.

5. Accordingly it is directed that within a period of eight weeks from today, the Education Officer (Secondary) shall consider the petitioners' representations dated 23.03.2023 and 20.05.2023 and take a decision thereon. The petitioners are permitted to place additional documents/judgments in support of the request made in the representations. After granting opportunity of hearing to the petitioners, the Education Officer (Secondary) shall decide said representations and the decision be communicated to the petitioners. Needless to state the if the grievance of the petitioners still subsists, they are free to take steps as are permissible in law. Rule is made absolute in aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)