



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

WRIT PETITION NO.2734 OF 2021

Bhagyashri W/o Prakashrao Kulkarni,
Age-29 years, Occu:Service as
Assistant Teacher in
Kai. Damodar Shankar Renavikar
Vidya Mandir, Savedi,
Taluka and District-Ahmednagar.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Education Department,
Mantralaya, Mumbai-32,
- 2) Director of Education,
Pune Division, Pune,
- 3) The Education Officer,
Salary & Pension Accounts,
Primary, Ahmednagar,
- 4) The Education Officer (Primary),
Zilla Parishad, Ahmednagar,
- 5) The Head Master,
Kai. Damodar Shankar Renavikar
Vidya Mandir, Savedi,
Taluka and District-Ahmednagar.

...RESPONDENTS

...
Mr. Amol N. Kakade Advocate for Petitioner.
Mr.S.J. Salgare, A.G.P. for Respondent Nos.1 to 3.
Mr. Rahul Shimre Advocate h/f. Mr. V.V. Gujar Advocate
for Respondent Nos. 3 and 4.
Respondent No.5 is served.
...

CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.

DATE OF RESERVING ORDER : 2nd APRIL 2024

DATE OF PRONOUNCING ORDER : 9th MAY 2024

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Petition has been filed for following relief:-

“(B) That by issuing writ of mandamus or any other appropriate writ, order or directions in like nature, the respondent No.2 may kindly be directed to include the petitioner’s name in the *Shalarth Pranali* and release her unpaid Salary pending since 2015 along with other consequential benefits.”

2. The documents on record point out that the petitioner is said to have been appointed as Shikshan Sevak on 2nd January 2012 and her appointment was so confirmed from 3rd January 2015, by orders dated 27th August 2019 and 15th April 2020, respectively. In spite of permanent approval, it appears that name of the petitioner was not taken in *Shalarth Pranali*. Along with the Writ Petition copy of the proposal by respondent No.5 Head Master for inclusion of the name of the petitioner in *Shalarth Pranali* has not been produced but it appears that the petitioner on her own had forwarded an application for inclusion of her name in *Shalarth Pranali*.

3. From the affidavit-in-reply on behalf of respondent Nos. 3 and 4 i.e. Gulab Gafur Sayyad, Education Officer (Primary) Zilla Parishad, Ahmednagar, it can be gathered that respondent No.5 Head Master had submitted proposal for inclusion of the name of the petitioner in *Shalarth Pranali* to respondent No.4 on 27th December 2019. There were lacunas/defects which were intimated to respondent No.5 on 6th January 2020. Those queries/defects were cured and the proposal was submitted to respondent No.3 on 1st February 2020. It was sent to respondent No.2 on 13th February 2020. However, respondent No.2, after verification, raised certain queries and sent it back for compliance on 20th July 2020. Those queries were complied with by respondent No.3 and the compliance report was again sent to respondent No.2 on 23rd September 2020 and again it was followed for sanction on 24th December 2020. Again the position as regards the roster was orally inquired, which was immediately intimated. According to respondent No.4, matter is now pending before respondent No.2.

4. Against the query raised by the Divisional Deputy Director of Education, Pune, respondent No.4 had submitted that the petitioner came to be appointed after the retirement of one

Rohini Khele on 31st December 2011, from open category and therefore, approval has been granted to the petitioner's appointment from 2nd January 2012.

5. Respondent No.2 has filed affidavit of one Audumbar Ukirde, the Deputy Director of Education, Pune Region, Pune, wherein it has been stated that permission has been granted to include the name of the petitioner in *Shalarth Pranali* with effect from 1st June 2012 with a rider that the said permission is granted subject to decision on the date of approval to be considered after due course of hearing which would further be considered for grant of one step promotion. Though the petitioner's services are approved from the date of her appointment, but the vacancy in fact actually arose only on 31st May 2012 on the retirement of one teacher, namely Smt. Anagha Kulkarni from open category. Any earlier vacancy was not available on the face of record, with the school authority. But still he says that although the services are approved, the same would now be reconsidered by the superior authority i.e. Deputy Director of Education and only after that final decision can be arrived at regarding the entitlement of the petitioner for salary and one step higher post.

6. On 2nd April 2024 when the matter was heard, the learned AGP produced on record the communication by the Education Officer to the learned AGP, stating that the petitioner is getting regular salary, however, as regards the arrears of salary for the period from 3rd January 2015 to 28th February 2021 are concerned, the same is pending with the Deputy Director of Education, Pune Region, Pune. There were defects which were duly communicated to respondent No.5 Head Master on 29th December 2023. The proposal has not been returned after compliance.

7. Thus, it is to be noted from all those events and chronology that now there is no issue as such, regarding the regular salary of the petitioner but it is only in respect of the arrears for the period from 3rd January 2015 to 28th February 2021. The petitioner has also not challenged the order that instead of taking her appointment as 2nd January 2012 it would be considered from 31st May 2012 as against the vacant post due to retirement by superannuation of one Smt. Anagha Kulkarni. The order / communication dated 3rd February 2022 is very much clear in this respect as to how present petitioner's appointment cannot be considered in place of Rohini Khele as it is said that

one Smt. Waghmare came to be appointed from the open category.

8. Since the issue in respect of arrears for the aforesaid period is seized with the Deputy Director of Education, Pune Region, Pune and he has asked for some queries to be answered, it is necessary to direct respondent No.5 to respond the same (if not already responded) within a stipulated period and then to direct respondent No.2 to decide the said proposal regarding arrears of salary further within a stipulated period. Hence following order:-

ORDER

Writ Petition is disposed of with following directions:-

(I) Respondent No.5 to respond the communication dated 29th December 2023 to respondent No.2 within a period of THREE WEEKS from today; if already not responded.

(II) After the removal of those defects /

communication from respondent No.5 to respondent No.2; respondent No.2 to decide the proposal for the arrears of salary for the period from 3rd January 2015 to 28th February 2021 within a period of TWO MONTHS thereafter.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/MAY24