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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 WRIT PETITION NO. 6260 OF 2024

MANISHA BHASKAR PATIL AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH IT'S SECRETARY AND
OTHERS

Mr.V.D.Hon, Sr.Adv. i/b Mr.A.V.Hon, Advocate for the Petitioners.
Mr.S.K.Tambe, AGP for Respondent Nos. 1 to 3 /State.
Mr.V.V.Deshmukh, Advocate for Respondent No.6.
Mr.M.S.Shah, Advocate for Respondent No.5.

**(CORAM : RAVINDRA V. GHUGE AND
Y.G.KHOBRADE, JJ.)**

DATE : JULY 4, 2024

PER COURT :

1. Leave to add the original complainant, who is the Petitioner in WP No.9292/2018, as Respondent No.6. An addition be carried out forthwith. The learned Advocate Mr.Deshmukh causes an appearance on behalf of Respondent No.6.

2. Ex-facie, our view after hearing the learned Senior Advocate for the Petitioner, the learned AGP and the learned Advocate Shri.Deshmukh on behalf of the added Respondent No.6 is that the

tendency amongst the Government Officers in attempting to overbear the majesty of the Court, is on the rise. The Petitioners were before us in WP No.11560/2017 when we passed an order on 25.09.2017, directing the Competent Authority to decide the pending proposals seeking approval to the appointment of the Petitioners, within 4 months. The approvals were granted. Hence, the Respondent No.6 before us today, had approached in WP No.9292/2018, posing a challenge to the selection and appointment of these Petitioners. The first order was passed on 20.03.2019, specifically observing that there is no interim relief in favour of the said Complainant Petitioner. Pleadings were directed to be completed.

3. Since the salary of these Petitioners was not released, these Petitioners approached this Court in WP No.5110/2019. By an order dated 01.08.2019, we had observed in paragraph Nos. 9 to 11 as under :-

“9. In view of that, the Education Officer shall process the salary bills of petitioners. It shall not be rejected only on the ground that writ petition no.9292/2018 is pending. It shall consider that if the petitioners are working on the said posts, then the salary bills shall be processed. The same shall be considered expeditiously and preferably

within a period of two (2) months from today.

10. Mr.Girase, learned Government Pleader submits that now the petitioners have remedy to raise their grievance before the committee constituted under Government Resolution dated 20.07.2019. The constitution of the committee to consider the grievance of the employee of aided or partially aided schools is as under :-

<i>1</i>	<i>Deputy Director of Education</i>	<i>President</i>
<i>2</i>	<i>Head Master of the concerned school</i>	<i>Member</i>
<i>3</i>	<i>Education Officer</i>	<i>Member Secretary</i>

11. If employee have a grievance against the school and in the committee if Head Master of the same school is a member, then it may flout the principles of natural justice. He would become a judge of his own cause. The State may consider the said aspect and take decision as to whether to retain the Head Master of the concerned school in the Committee. The decision shall be taken expeditiously and preferably within a period of one (01) month from today.”

4. Thereafter, again these Petitioners had to come to this Court in WP No.10054/2019. Grievance was as regards salary not being paid. We passed an order on 04.09.2019, concluding that as the Petitioners are working, there is no reason to withhold their salary for the period they are working. Thereafter, the Divisional Chairman, Secondary and Higher Secondary Education Board, Pune, Respondent No.4 herein, passed an order on 30.08.2019, by which he had issued

certain directions to facilitate the inclusion of these Petitioners in the *Shalarth Pranali*. We are told that subsequently an order was passed and these Petitioners were accordingly enrolled in the *Shalarth Pranali*.

5. Today, the Petitioners are before us again, since the Petitioner in WP No.9292/2018, Respondent No.6 herein, approached Respondent No.4 after there was a change in the Divisional Chairman. It is canvassed by the learned Senior Advocate for the Petitioners that though WP No.9292/2018 preferred by Respondent No.6 was pending before this Court challenging the legality and validity of the selection and appointments of the Petitioners, he prevailed on Respondent No.4, to pass an order. The order so passed indicates that the approvals of the Petitioners were cancelled and they are held to be illegally appointed. This very aspect is a subject matter of WP No.9292/2018 and this was brought to the notice of the said Authority / Respondent No.4, as reflected in paragraph No.6 on internal page no.2 of the impugned order.

6. There is no dispute amongst the parties before us that none of these Petitioners were given an opportunity of hearing and no show

cause notice was issued to them. The impugned order is virtually passed on the back of the Petitioners. They are condemned unheard.

7. It is well settled that nobody can be condemned unheard. The disastrous effect of the impugned order is that all these Petitioners and those who are mentioned in the order, in all 22 of them, out of which 17 are before us, are under a threat of removal from service, since the impugned order has the effect of not only deleting their names from the *Shalarth Pranali*, but also stopping their salaries. In this case, the Management would have to pay the salaries and there is a possibility that the Management would not continue these persons or may not even pay them their salaries.

8. In view of the above, **this Writ Petition is partly allowed.** The impugned order dated 18.06.2024, is quashed and set aside. Consequentially, the benefits flowing from prayer clause 'C' shall be available to the Petitioners. Prayer clause 'C' reads as under :-

“C. Issue a writ of mandamus or writ in the nature of mandamus to the respondent authorities of the education department to regularly accept the salary bills of the petitioners and continue to pay their salaries.”

9. We direct Respondent No.4 not to indulge in any exercise of scrutinizing the manner in which the 22 people have been appointed, since it would be a matter to be considered and decided in WP No.9292/2018. Respondent No.6, who is the Petitioner in that matter, intends to file a fresh Writ Petition for challenging the newly appointed candidates, who are in employment.

10. All contentions of the litigating parties would be considered in WP No.9292/2018 and in the new Writ Petition, if filed by Respondent No.6 herein. Since WP No.9292/2018 was filed when the Petitioners were probationers, no equities would be created in their favour by this order and all the parties would be bound by the result in the Writ Petition no. 9292/2018.

(Y.G.KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)