



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

WRIT PETITION NO. 7839 OF 2019

Narendra Sahebrao Patil,
Age : 54 years, Occu: Assistant Teacher,
R/o: Gut No.28, Plot No.27,
Muktainagar Colony,
Jalgaon, 425 001.

..Petitioner

Versus

1. Jalgaon Dist. Maratha Vidya,
Prasarak Co-op Samaj Ltd.,
through its Director,
Shri. Vijay S/o. Bhaskarrao Patil,
Age: 50 years, Occu. Advocate,
R/o. 71 Dixitwadi, Jillhapeth, Jalgaon.
2. The Headmaster,
B.Ed. College, Adarsh Adyapan Shala,
Jalgaon, Dist. Jalgaon.
3. The Headmaster,
Maharashtra Vidyalaya, Nachankhed,
Tq. Jamner, Dist. Jalgaon.
4. Nilesh Ranjit Bhoite,
Age: Major, Occupation: Nil,
R/o: Ahilya Niwas, Bhoite Nagar,
Near Pimprala Railway Gate,
Dist. Jalgaon.
5. The Education Officer (Secondary),
Zilla Parishad, Jalgaon, Dist. Jalgaon.

..Respondents.

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Mr. N. E. Deshmukh, Advocate for the Petitioner.

Mr. P. S. Patil, Addl. GP for Respondent No.5.

Mr. U. R. Awate, h/f M/s. Talekar and Associates, Advocate for Respondent No.1.

Mr. A. D. Shinde h/f Mr. K. B. Jadhav, Advocate for Respondent Nos.3 and 5.

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

JUDGMENT RESERVED ON :- 29th FEBRUARY 2024.

JUDGMENT PRONOUNCED ON :- 18th MARCH 2024.

JUDGMENT (Per: S. G. Chapalgaonkar, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the stage of admission.

2. The petitioner approaches this Court under Article 226 of the Constitution of India, thereby challenging the order dated 15.06.2019, issued by respondent no.1 and order dated 17.06.2019 issued by respondent no.2.

3. The petitioner contends that on 26.08.1986 he was initially appointed as an Assistant Teacher at Mahatma Gandhi Vidyalaya, Jamner. Lastly, he was transferred to the Maharashtra Vidyalaya at Nachankhed, Tq. Jamner, Dist. Jalgaon vide transfer order dated 17.06.2019 and he was directed to report on the post of transfer. According to the petitioner, before issuing the transfer order his consent was not obtained. However, in sequel of the aforesaid order when the reported transfer post, Headmaster did not allow him to join. The petitioner complained to the Education Officer vide his communication dated 25.07.2019. However, petitioner was made to run from pillar to post. The Education Officer vide his order dated 04.03.2020 directed the Headmaster to relieve the petitioner to enable him to join at his original establishment. However, vide subsequent order dated 17.03.2020, the Education Officer withdrew his earlier directions. Thereafter petitioner discharged his duties at Maharashtra Vidyalaya at Nachankhed till the date of his retirement. Further vide communication dated 02.06.2022, the Education Officer communicated the Headmaster of the Maharashtra Vidyalaya that the petitioner has been wrongly transferred in contravention of the Rule 41(5) of the

Maharashtra Employees of Private Schools (Conditions of Service) Regulation Rules, 1981 (for short 'MEPS Rules, 1981'). He could not have been allowed to join in pursuance of the transfer order and it was further directed that the petitioner be relieved for joining with respondent no.2-B.Ed. College.

4. The respondent no.3 filed his affidavit-in-reply stating that respondent no.5-Education Officer failed to grant approval to the transfer of the petitioner and because of his inaction, the pay bills of the petitioner could not be processed. Even on retirement of the petitioner, his pension proposal could not be forwarded. In case Education Officer grants approval to the transfer dated 15.06.2019, he shall be in the position to submit pay bills and forward the proposal for release of the pensionary benefits to the petitioner.

5. The respondent no.5-Education Officer, Zilla Parishad, Jalgaon filed his affidavit-in-reply and placed certain documents depicting the correspondence of his office with the Headmaster of the school and management.

6. We have heard the learned Advocate appearing for the respective parties. It is not in dispute that the petitioner was a permanent teacher on grant-in-aid post and served as such till date of his retirement on superannuation. The petitioner was transferred on administrative reasons to Maharashtra Vidyalaya at Nachankhed under order dated 17.06.2019 passed by Secretary of Trust and for that purpose he was relieved from Junior College of Education, Jalgaon.

7. The petitioner assailed said order questioning the authority of respondent no.4-Secretary to issue transfer order, since there were disputes in the groups of management. This Court while refusing interim relief observed that if transfer is effectuated, the place where

the petitioner is transferred, to be approved by the Education Officer. The record shows that during the pendency of this petition, several communications have been exchanged between the petitioner, Education Officer and Management of Institution.

8. The petitioner appears to have reported on post of transfer in pursuance of the transfer order. Initially, the Headmaster working at the transferred school was reluctant to accept the joining of the petitioner. The Education Officer has also issued contradictory order, as evident from Exhibit-Y, page no.116(9) and order at Exhibit-Z, page no.116(8). Evidently the petitioner is made to run from pillar to post.

9. Since there were dispute in management groups, Divisional Director of Education, Nasik vide order dated 01.06.2021 directed the Education Officer to ensure release of salary to the employees of respondent no.1, who are subjected to transfer. It was clarified that the salary bills shall be processed from the transferred places, if the petitioners have joined the post of transfer or in case of employees who have not relived, the salary bills shall be processed from their original place of posting. In sequel to the said order, Education Officer issued communication to the Headmaster to process salary bills of the employees from their original establishment. Apparently, by now, petitioner retired from service on attaining age of superannuation and restricts his claim for release of his salary from the date of transfer till date of his retirement and further to process his pension proposal.

10. In that view of the matter, when the petitioner was permanent employee and discharged his duties, it is obligatory on the part of the respondents to take necessary steps for release of his salary, dues from the date of his transfer i.e. 17.06.2019. The joining report placed on record at Exhibit-I shows that the petitioner reported to the

transferred post on 24.07.2019. However, his salary bills have not been processed. The petitioner made several communications/representations to the Education Officer and higher authorities to look into the matter and issue necessary directions for release of his salary. We find that there are inconsistent communications at the hands of respondent no.5, which has lead to the plight of petitioner. It appears that, the petitioner has discharged his duties till he retired from service on 31.05.2021. In that view of the matter, we are inclined to dispose of the Writ Petition by issuing following directions:

ORDER

- a. Writ Petition is partly allowed.
- b. The respondents shall take necessary steps for release of salary dues of the petitioner from 17.06.2019 till the date of his retirement on 31.05.2021.
- c. The respondent nos.1 to 3 shall prepare salary bills of the petitioner for aforesaid period within period of 6 weeks and forward same to respondent no.5, who shall take further steps to release the same within a period of six (6) weeks from the date of receipt of salary bills from respondent No. 1 to 3.
- d. The respondent nos.1 to 3 shall also forward the pension proposal of the petitioner to the concern authorities within a period of three months from the date of this order.
- e. Writ Petition is disposed of in aforesaid terms.
- f. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE