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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7549 OF 2024

(Siddiqui Gaousmohiuddin and Others Vs. The State of Maharashtra
and Others)

WITH

WRIT PETITION NO.7553 OF 2024

(Bhagwanti Bharat Pardeshi and Others Vs. The State of Maharashtra
and Others)

WITH

WRIT PETITION NO.7749 OF 2024

(Rahul Ashokrao Kshirsagar and others Vs. The State of Maharashtra
and Others)

WITH

WRIT PETITION NO.7753 OF 2024

(Avinash s/o Gangadhar Kondekar and Others Vs. The State of
Maharashtra and Others)

Mr.M.K.Deshpande, Mr.S.A.Nagarsoge, Mr.A.V.Rakh, Advocate for the
Petitioners in respective Petitions.

Mr.K.K.Naik, AGP for the Respondent/State.

Mr.P.D.Suryawanshi, Advocate for Respondent Nos. 4 to 6 in WP
No.7549/2024 and 7553/2024.

Mr.S.R.Shirsat, Advocate for Respondent Nos. 4 to 6 in WP
No.7749/2024 and 7753/2024.

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

DATE : JULY 24, 2024

PER COURT :

1. Writ Petition Nos.7749/2024 and 7753/2024, are not on
board. These two Petitions are taken on board at the request of the

parties.

2. All the Petitioners are identically placed. For reference purpose, prayer clause C, D, E, F and G put forth in WP No.7549/2024, are reproduced hereunder :-

“C] This Hon'ble Court may be pleased to issue appropriate writ, order or direction for quashing and set aside the order bearing No. OW/ZPB/Edu./Pri. Div.1-A No. 2215/2022 dated 10.6.2022 issued by the respondent no. 4 thereby cancelling the primary graduate pay scale of Rs.9300-34800 grade pay Rs. 4300/- vide order dated 27.6.2014 and recovering the said pay from the petitioners and re-fixation of the said pay scale and further it be held that, the petitioners are entitled to draw the primary graduate pay scale of Rs.9300-34800 + grade pay Rs.4300/-, as per the orders dated 27.6.2014 issued by the respondent no.4 with all consequential benefits of continuity of the said pay scale Rs. 38600-1,22,800/- as per 7th pay, which the petitioners are drawing at present.

D] Pending hearing and final disposal of this writ petition the operation and execution of the order dated 10.6.2022 bearing No. OW/ZPB/Edu. Dept.P/P Div.1-A No. 2215 issued by respondent no. 4 may kindly be stayed so far as it relates to the petitioners.

E] Pending hearing and final disposal of this writ petition the respondent no.4 to 6 may be restrained from taking any step towards

cancellation, re- fixation of pay and recovery of any sum from the present salary of the petitioners, pursuant to the order bearing No. OW/ZPB/Edu. Dept.P/P Div.1-A No. 2215 dated 10.6.2022.

F] Pending hearing and final disposal of this writ petition the respondent no. 4 may be directed to pay regular salary to the petitioners in the pay scale as per the order dated 27.6.2014 issued by the respondent no.4 i.e. pay scale of Rs.9300-34800/- and Rs. 38600 to 1,22,800/- and further orders dated 21/07/2022, 18/07/2022 issued by the respondent no.6.

G] This Hon'ble Court may be pleased to issue appropriate writ, order or direction for quashing and setting aside the Govt. circular dated 13.10.2016 issued by the respondent no.1 bearing No.Pay1216/Pra. Kra.123/16/TNT-3 through School Education and Sports Dept. and it be held that the said circular is not applicable to the petitioners.”

3. The learned Advocates for the Petitioners submit that they have challenged the impugned order as well as the Government Resolution dated 13.10.2016. However, by a further Government Resolution issued on 27.06.2022, a committee has been formed to look into the grievances of the employees like these Petitioners, who are insisting on the implementation of the legal principle in service jurisprudence i.e. “equal pay for equal work”. There is no dispute that

all these Petitioners are graduate trained teachers and all of them have been granted the pay scale of the graduate teacher long ago, which has been altered by the impugned order.

4. It is undisputed that, prior to the introduction of the Government Resolution dated 13.10.2016, all the graduate trained teachers have been granted the pay scale of the graduate trained teacher. It is equally undisputed that, by Government Resolution dated 11.08.1999, the State Government resolved to pay the salary scale available to a graduate trained teacher. For brevity, if there are 4 graduate trained teachers in the subject of Geology, the senior most teacher would be eligible for the pay scale of a graduate trained teacher, which would be 25% of the available strength of eligible teachers. However, in several cases, every graduate trained teacher was extended the said scale. By the Government Resolution dated 13.10.2016, the proportion of 25% of the senior most graduate teacher in the subject being eligible for the pay scale commensurate to the position held, was altered and the new proportion of 1/3rd was made applicable. For brevity, if the subject Geography has 3 teachers, 1/3rd meaning 33 1/3rd % of the teachers would be eligible for the pay scale. If there are 6 teachers, 2 would get pay scale of the graduate trained

teachers. If there are 9 teachers in Geography, who are graduate trained teachers, 3 senior most teachers would get the pay scale.

5. The grievance of these Petitioners is that, all the graduate trained teachers were earlier paid the pay scale commensurate to the posts held by them. This position was not altered until the Government Resolution dated 13.10.2016, was introduced. According to the Petitioners, they are further aggrieved by the impugned order, where proportion of 1/3rd teachers as per the seniority/subject-wise, was not followed and the proportion was reduced to 25%.

6. The learned Advocate representing the Zilla Parishad has made a valiant attempt to defend the impugned order. He is supported in his submissions by the learned AGP with equal vehemence. However, when confronted with Clause-3 of the Government Resolution dated 13.10.2016, they fairly submit that the said Government Resolution requires 33% of the senior most graduate trained teachers to be considered for the pay scale, subject-wise, going by their seniority. In view of the above, it is obvious that the impugned order referring to the provision of 25%, instead of the referable Clause-3 of the 2016 Government Resolution of 33 1/3rd %, is unsustainable.

7. The learned AGP and the learned Advocate for the Zilla Parishad, draw our attention to yet another Government Resolution dated 27.06.2022. The Government of Maharashtra has formed a committee. The terms of reference to the committee, are as under:-

"२. अभ्यास समितीची कार्यकक्षा पूढीलप्रमाणे राहिल :-

उच्च प्राथमिक स्तरावरील २५% शिक्षकांना पदवीधर वेतनश्रेणी देण्यामागील पार्श्वभूमी, सदर शिक्षकांच्या शैक्षणिक / व्यावसायिक अर्हतेमध्ये कालोघात झालेले बदल, तत्संबंधाने सदर शिक्षकांना सरसकट पदवीधर वेतनश्रेणी देण्याची मागणी, त्यामुळे पडणारा आर्थिक भार ड. अनुषंगिक सर्व मुद्यांचा सर्वंकष अभ्यास करून शासनास शिफारस करणे.

३. या शासन निर्णयान्वये गठीत करण्यात आलेल्या अभ्यास समितीने उपरोक्त नमूद बाबींच्या अनुषंगाने तीन महिन्यात अहवाल शासनास सादर करावा.

४. अध्यक्ष, अभ्यास समिती आवश्यकतेनुसार सदर समितीवर शासकिय / अशासकिय सदस्यांना आमंत्रित करू शकतील."

8. It is obvious that the above stated committee had to submit a report within three months from the date of it's constitution. There is no dispute that the committee is in place.

9. In view of the above, **the Writ Petitions are partly allowed.** The impugned orders are quashed and set aside.

10. We expect the said Committee constituted under the Government Resolution dated 27.06.2022, to submit its recommendations to the Government, before 30.10.2024. The position existing prior to the issuance of the impugned orders, is restored. However, being conscious of the fact that a committee has been constituted by the Government Resolution dated 27.06.2022, any further decision of the authorities would be subject to the recommendations of the committee, if accepted and implemented by the State Government.

11. In view of the delay and laches, the learned Advocates for the Petitioners submit that each of these Petitioners would deposit an amount of Rs.500/- as donation to the Advocates' Association of Bombay High Court, Bench at Aurangabad, within 30 days.

(Y.G.KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)