



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

Writ Petition No. 13125 / 2017

Madhav s/o Gangadhar Patil

Age : 32 years, Occu. Service,

R/o Bal Ram Vidhyalay Hangarga (Ku)

Post Tondar, Tq. Udgir, Dist. Latur.

...Petitioner

Versus

1. State of Maharashtra
Through it's Secretary,
School Education Department,
Mantralaya, Mumbai.
2. The Director of Education (Secondary),
Maharashtra State Pune.
3. The Deputy Director of Education (Secondary),
Latur Division, Latur.
4. The Education Officer (Secondary),
Latur, District Latur.
5. The Secretary,
Bal-Ram Vidhyalay Hangarga (Ku.)
Tondar, Tq. Udgir,
Dist. Latur.
6. The Head Master,
Bal-Ram Vidhyalay Hangarga (Ku.)
Tondar, Tq. Udgir,
Dist. Latur.

..Respondents

— — —
Advocate for the Petitioner : Mr. D. S. Mali

Addl. G.P. for Respondents/State : Mr. P. S. Patil
— — —

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 18 JUNE 2024

ORAL JUDGMENT [Per Shailesh P. Brahme, J.] :

. Rule. Rule is made returnable forthwith. Heard both the sides finally.

2. Petitioner is seeking mandamus for releasing unpaid salary on the date of his appointment i.e. 21.11.2010 and for granting consequential benefits.

3. It is the case of the petitioner that he was appointed as a peon on 21.11.2010 by following due procedure of law on a sanctioned vacant post. His appointment was approved by the Education Officer vide order dated 21.12.2011. Since then he is continuously rendering services till today. He has not been paid salary from 21.11.2010.

4. Learned Counsel for the petitioner submits that order of approval has not been revoked or recalled at any point of time. He would further submit that when inquiry was conducted, the management produced relevant record to show that after the appointment of petitioner, proposal was submitted and the then Education Officer granted him approval vide order number 2011 in Camp No.42. The then Education Officer Mr. Kailash Goswami reiterated this fact by communication dated 11.03.2024 to the respondent no.4/Education Officer. Having

verified the authenticity of the approval order, it would not be permissible to withhold the salary of the petitioner.

5. The respondent no.5 and 6 have filed affidavit-in-reply to support the claim of the petitioner. It has been reiterated in the reply that proposal was forwarded seeking approval to the appointment of petitioner and approval was given on 21.12.2011. The petitioner successfully completed period of probation on 21.11.2013. Again on 16.02.2017 proposal was forwarded for permanent approval. Thus the petitioner should have been paid salary from the grants.

6. Per contra, learned Additional G.P. Mr. P.S. Patil appearing for the respondent nos. 1 to 4 would oppose the claim of the petitioner relying on affidavit-in-reply filed on 02.08.2018 and 10.06.2024. He would submit that no record is available to demonstrate issuance of approval. The petitioner and the management prepared bogus appointment order and the order of approval. It is further submitted that a detailed inquiry has been proposed to unearth the truth as the documents produced by the petitioner are suspicious. The matter has been referred to respondent no.3/Deputy Director of Education.

7. We have considered submissions of the parties. It reveals from the record that there were three posts sanctioned for peon. One Mr. Ramrao Bhosle died who was working as a peon

and the management was required to undertake the process of selection. An advertisement was issued on 16.11.2010. The petitioner applied in pursuance of the advertisement and was selected. The proposal for approval was forwarded by the management to the respondent no.4/Education Officer. It was approved vide order dated 21.12.2011 bearing Outward No. Camp/42. It further reveals that the petitioner is continuously rendering services after his appointment.

8. The respondent no.4/Education Officer has raised doubt regarding order of appointment and approval granted to the petitioner in reply filed on 01.08.2018. Time was granted to learned AGP to verify and produce the relevant outward register vide order dated 23.06.2022. Thereafter respondent no.4 filed another reply on 10.06.2024. Its paragraph no.5 is as follows :

"5. I say and submit that, in reply to the letter dated 01/03/2024 issued by the deponent, the then Education Officer (Secondary) Zilla Parishad, Latur Mr. Kailas Goswami issued letter dated 11/03/2024 and stated that, the order of approval No.2011 was issued and signed by him in Camp No.42. The copy of said letter dated 01/03/2024 and 11/03/2024 are annexed herewith and marked as Exhibit-R-1 colly."

9. In pursuance of the order dated 23.06.2022, respondent no.4/Education Officer addressed a letter dated 01.03.2024 to Mr. Kailash Goswami, the then Education Officer, calling upon him to state as to whether order of approval in question was issued under his signature or not. He tendered reply on 11.03.2024 stating that order of approval bearing Outward

Camp No.42 of 2011 was issued under his signature to the petitioner.

10. There is sufficient material on record to endorse authenticity to order of approval dated 21.12.2011 issued in favour of the petitioner. There is nothing on record except contention of the respondent no.4/Education Officer that order of appointment and approval of the petitioner are suspicious.

11. The order of approval has neither been recalled, nor revoked, though by communication dated 10.06.2024, the respondent no.4/Education Officer referred the matter for further inquiry to respondent no.3/Director of Education. Surprisingly during period 21.12.2011 to 23.06.2022, no action was taken by the respondents to verify authenticity of the order of approval. Even after order passed on 23.06.2022, no steps are taken. We are unable to accept the plea that order of appointment and order of approval are suspicious.

12. Petitioner has rendered services from 21.11.2010 till this date. Despite having approval granted on 21.12.2011, no salary is paid to him either by the management or the Education Officer. We find that his claim for salary and consequential monetary benefits is legitimate. There are lapses on the part of the respondent no.4 and no timely steps have been taken to verify the record.

13. When petitioner made grievance for unpaid salary and

consequential benefits, respondent no.4 woke up from the slumber. Though there is no express prayer for future monthly salary, we deem it appropriate to grant the same. It is consequential relief and procedural technicalities would not be impediment in exercising writ jurisdiction. If this is the situation, petition deserves to be allowed by following order :

ORDER

- i. The writ petition is allowed.
- ii. The petitioner is entitled to salary and consequential benefits of a post of peon from 21.11.2010.
- iii. The respondents shall determine the salary payable to the petitioner considering relevant norms and disburse the same within a period of three months, by taking necessary steps expeditiously.
- iv. The respondents shall disburse monthly salary to the petitioner by making necessary arrangements.
- v. The respondents shall be at liberty to conduct inquiry for verification of the documents of the petitioner suspected by them and his eligibility but same shall not be impediment for releasing monthly salary and the arrears of salary to him.
- vi. The writ petition is disposed of. Rule is made absolute in above terms.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE