



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 4212 OF 2024

Sainath S/o Madhavrao Chandapure,  
Age : 52 Years, Occ. Service,  
R/o. Nimtek, Post : Waghalwada,  
Tq. Umri, Dist. Nanded  
Through power of Attorney to Wife,  
Sow. Savita W/o Sainath Chandapure,  
Age : 46 Years, Occ. Household,  
R/o. Nimtek, Post. Waghalwada,  
Tq. Umri, Dist. Nanded.

.. Petitioner

VERSUS

1. The Secretary of Maharashtra,  
Through Secretary,  
Rural Development Department,  
Mantralaya, Mumbai-32.
2. The Commissioner Handicapped Welfare,  
Handicapped Commissionerate Welfare,  
3, Church Road, Maharashtra State,  
Pune.
3. The Chief Executive Officer,  
Zilla Parishad, Nanded.
4. The Education Officer ( Primary),  
Zilla Parishad, Nanded.
5. The Block Education Officer,  
Panchayat Samiti, Umri Tq. Umri,  
Dist. Nanded.
6. The Headmaster,  
Zilla Parishad Primary School, Sindhi,  
(Center Dholumri) Tq. Umri,  
Dist. Nanded.

.. Respondents

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Advocate for the Petitioner : Mr. A.D. Pawar  
AGP for Respondent Nos. 1 and 2 : Mr. S. R. Yadav-Lonikar  
Advocate for Respondent Nos. 3 to 6 : Mr. S. B. Pulkundwar

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**CORAM : R. G. AVACHAT AND  
SANDIPUKUMAR C. MORE, JJ.**

**DATED : APRIL 09, 2025**

**ORDER:-**

1. Heard.
2. The petitioner was appointed as 'Assistant Teacher' on 1st July 1992. During the service, he developed Neurocognitive disorder. Nature of illness is affecting his thinking, reasoning and decision making capacities, and therefore, he could not render teaching job. He, therefore, requested the Chief Executive Officer, Zilla Parishad, Nanded to give him non-teaching job or accommodate on any other post. It is his claim that, since 1st February 2022, he has not even been paid his salary.
3. The learned Advocate for the respondent- Zilla Parishad, referring to the affidavit-in-reply, would submit that, the petitioner remained absent from duty for over a year. When he was called upon to appear before the Medical Board, he did not respond. He would further submit that, the Zilla Parishad is ready, if he appears and submits himself for medical examination. The Zilla Parishad is also ready to do needful, if he is found to have developed disability as has been alleged by him in the petition.

4. We have considered the submissions advanced. After filing of affidavit in reply, this Court had directed the petitioner to appear before the Medical Board of “Dr. Shankarrao Chavan Government Medical College and Hospital, Nanded”. Accordingly, he appeared. The Board examined him and submitted the report to this Court on 19th July 2024. The report reads thus :

**“ Respected Sir/Madam**

As per Honourable Courts order, we have examined Mr. Sainath M. Chandapure in Department of Psychiatry of Dr. Shankarrao Chavan Govt. Medical College & Hospital Vishnupuri Nanded on 11.07.2024. Expert opinion of three qualified Psychiatry was taken. Opinion of experts is as follows :

**Opinion :-**

As per available Records, details provided by relatives, investigation reports and clinical judgment, it can be inferred that the examinee is suffering from a mental illness viz. Neurocognitive disorder. Nature of illness is affecting his thinking, reasoning and decision making capacities. Due to which he is not in a psychological state to perform his duties as a teacher. He has disability of 65% due to the illness. The Nature of disability due to illness is permanent so he needs long term supervision, tender care and support from family members.”

5. Section 20 of the Rights of Persons with Disabilities Act, 2016 reads thus :-

(1) No Government establishment shall discriminate against any person with disability in any matter relating to employment.

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such condition, if any, exempt any establishment from the provisions of this Section.

(2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.

(3) No promotion shall be denied to a person merely on the ground of disability.

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service.

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits;

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities.

6. Since the petitioner remained absent from the duty on account of his disability, and he is unable to render teaching job, it is incumbent on the employer to comply with the mandate of Section 20 referred herein above. As such, the petition deserves to be allowed in terms of prayer clause (B) and (C) the same is therefore allowed accordingly, which reads as under :-

(B) The respondent Nos.3 to 6 may kindly be directed to pay the petitioner the arrears of salary w.e.f. 01.02.2022 till the date and further directed to pay regular pay scale in future till the petitioner shifted to some other post or the petitioner be kept on supernumerary post or he attains the age of superannuation, by issuing writ of Mandamus or any other appropriate writ or order

as the case may be :

(C) The respondents be directed to extend the benefits in favour of the petitioner as provided U/sec 20(4) of the Right of Persons with Disabilities Act, 2016 and thereby petitioner be shifted to some other post with the same pay scale and service benefits or petitioner may be kept on supernumerary post until a suitable post is available by issuing necessary Writ of or order as the case may be necessary.

7. The compliance of this order is expected within eight weeks from the date of receipt of copy of this order.

**(SANDIPKUMAR C. MORE)**  
**JUDGE**

**(R. G. AVACHAT )**  
**JUDGE**

*Y.S. Kulkarni*