



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.7222 OF 2024

Keshav Vishramji Kale,
Age-58 years, Occu:Service,
R/o-Chaundi(Kh.), Tq-Sengaon,
District-Hingoli.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32,
- 2) Additional Commissioner,
Tribal Development Department,
Amravati, Near Office of Police Commissioner,
Behind T.B. Hospital, Amravati,
- 3) Assistant Collector/Project Officer,
Integrated Tribal Development
Project Kinwat,
(Ekatmik Adiwasi Vikas Prakalp, Kinwat)
Tq-Kinwat, Nanded Road, Gokunda,
Tq-Kinwat, District-Nanded,
- 4) Medical Board,
Dr. Shankarrao Chavan Government
Medical College and Hospital,
Vishnupuri, Nanded,
Tq. and District-Nanded,
Through its President,
- 5) Late Kusumtai Shankarraoji Chavan
Anudanit Prathamik Va Madhyamik
Adiwasi Ashram Shala, Bhokar,
Tq-Bhokar, District-Nanded,
Through its Head Master,

6) Shrinivas Shikshan Sanstha, Bhokar,
Tq-Bhokar, District-Nanded,
Through its President,
C/o-Head Master,
Late Kusumtai Shankarraoji Chavan
Adiwasi Ashram Shala, Bhokar,
Tq-Bhokar, District-Nanded.

...RESPONDENTS

...
Mr. Ankush N. Nagargoje Advocate for Petitioner.
Mr. V.M. Kagne, A.G.P. for Resp. Nos. 1 to 4.
Mr. Hanmant V Patil Advocate for Resp. Nos.5 and 6.
...

**CORAM: SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.**

DATE : 7th OCTOBER, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Petition has been filed for writ of mandamus directing respondent Nos.3, 5 and 6 to sanction medical leave of the petitioner from 20th July 2022 to 19th April 2024 and release of salary of the said period. There are consequential prayers also.

2. Heard learned Advocate Mr. Nagargoje appearing for the petitioner, learned AGP Mr. Kagne appearing for respondent Nos.1 to 4 and learned Advocate Mr. Patil appearing for respondent Nos.5 and 6.

3. The petitioner was serving as assistant teacher in Shri Shivaji Adiwasi Post Basic Ashram School, Boralwadi, Taluka-Hingoli, District-Parbhani since 1999. Subsequently the said school came to be closed and by order dated 2nd January 2016, he came to be absorbed in respondent No.5 school. Unfortunately the petitioner was diagnosed with cancer and he was required to take treatment from 22nd February 2022 to 1st April 2022 and the rest was suggested for two months. On 21st July 2022 he was admitted in Marathwada Critical Cancer Hospital, Aurangabad where he was operated twice. He has taken treatment as indoor patient from 8th August 2022 to 18th August 2022. Further treatment has been taken with Manik Hospital, Aurangabad as indoor patient till 21st September 2022. Again the petitioner has undergone surgery in Gajanan Hospital, Akola on 4th January 2024 and was treated as indoor patient from 3rd January 2024 to 9th January 2024. He had applied for medical reimbursement. The authorities have cleared his bill for the treatment till certain period only on 22nd May 2023. In fact he was on medical leave or leave was for the treatment on medical ground but his salary bills were not granted after his resumption on the duty on the ground that he has not submitted the fitness certificate. Respondent No.2 had passed order dated

30th October 2023 directing the authorities to take necessary steps in respect of releasing the salary of the petitioner and thereupon respondent No.5 had forwarded the salary bill of the petitioner. The salary bill was for the period 20th July 2022 to 31st July 2023, amounting to Rs.10,68,389/-. There was some typographical mistake in the date so also the medical board has not issued proper certificate though time and again he was examined by the members of the medical board and therefore, the petitioner was required to approach this Court.

4. The respondents are not disputing that the petitioner was suffering from cancer. Even the earlier bill has been paid i.e. for the initial period. It appears that the dispute is in respect of the fitness certificate. The petitioner could get the fitness certificate on 12th October 2023. The leave that was recommended by the medical board on medical ground was from 1st November 2022 to 12th October 2023, as per the said letter. Thereafter once again the petitioner was checked by the board and further certificate came to be issued on 19th April 2024. At that time the leave that was recommended on medical grounds was from 12th October 2023 to 1st November 2023, but it was not recommended on medical ground from 2nd November 2023 till date i.e. 19th April 2024. Here it is to be noted that no reason

has been given as to why the recommendation has been withheld. But thereafter it appears that on 5th November 2024, another certificate came to be issued by the medical board wherein it is specifically stated that initially on 19th April 2024, the petitioner was not recommended leave from 2nd November 2023 to 19th April 2024 and the ground assigned was that he has not given treatment documents for that period. However it appears that the leave was then recommended on medical grounds from 1st August 2023 to 10th July 2024. It appears that this letter or certificate dated 5th November 2024, appears to have not been submitted before the appropriate authority for sanctioning the leave and further action.

5. The learned AGP is producing communication by respondent No.3 to respondent Nos.5 and 6 informing the shortcomings in the documents. Respondent No.3 has given communication to project officer, *Ekatmik Adivasi Vikas Prkalp* (Integrated Tribal Development Project), Kinwat, District-Nanded on 7th May 2025, which gives in all three shortcomings or defects. From this document, it can be said that the certificate issued by the medical board on 5th November 2024, appears to have not been placed before the concerned authority. Learned

AGP informs that the said work of grant of leave and issue further orders is within the jurisdiction of respondent No.2.

6. We therefore, dispose of the Writ Petition by directing respondent No.2 to give an opportunity to the petitioner and respondent Nos.5 and 6, to place all the documents once again and then to decide the proposal that was submitted by respondent Nos.5 and 6 in respect of the petitioner before him.

7. Respondent Nos.5 and 6 admit that the petitioner had resumed his duties on 11th July 2024. Under such circumstance, it would depend upon the decision that would be taken by respondent No.2 regarding the leave and then the further course would take place i.e. regarding the salary. Therefore, respondent No.2 to decide on the point of release of salary for the said period to the petitioner or not. Such decision be taken within a period of one month, upon production of the necessary documents by the petitioner and respondent Nos.5 and 6, before him.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE