

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8782 OF 2022

Sangram Arjun Kade. ... Petitioner
Versus
The State of Maharashtra & Ors. ... Respondents.

Mr. J.G. Reddy a/w. Ms. Ashwini B. Jadhav, for the Petitioner.
Ms. P.M.J. Deshpande, AGP for Respondent/State.
Mr. Ashok Misal, for Respondent No. 4.
Mr. Vijay Killedar, for Respondent No. 4.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 28th JANUARY, 2025

P.C. :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner claims to have been appointed as an Assistant Teacher on a clear and vacant post, on 15th December, 2010. His appointment on probation period was approved. Subsequently, vide order dated 4th June, 2013, his appointment as an Assistant Teacher in the pay-scale, was approved to the extent of 20% salary grants. The said order is at page No. 40.

3. On 4th June, 2013, the Administrative Officer of the Corporation extended 20% grant in aid to the said post with effect from 2010. On 23rd May, 2016, the Education Officer informed that the second division of standard 5 in the Respondent No. 6 School, would be given 100% grant in aid considering that 40% grants were extended in June, 2011, 60% in June, 2012, 80% since June, 2013 and 100% since June, 2015.

4. The Respondent No. 6 school moved representations on 25th May, 2016 and 25th September, 2017 seeking approval to the post occupied by the Petitioner claiming that it was extended 100% grant in aid. The Petitioner preferred a Writ Petition bearing No. 8562 of 2018 and by order dated 11/3/2020, it was directed that the proposal be decided within a period of 8 weeks. In pursuance to the same, the impugned order has been passed concluding that the post on which the Petitioner claims to have been appointed, earlier held by Smt. Taramati Vijaykumar Misal, has been abolished as the strength of the students fell below the required strength.

5. In the light of the above, we are inclined to pass an order, by taking into account the statement of the learned Advocate for the

Corporation on instructions and in the light of the Judgment delivered by this Court dated 24th October, 2018 in **Writ Petition No. 8547 of 2017 (Shri Mahadev Shriram Chaure v/s. State of Maharashtra & Ors.)**.

6. The learned Advocate for the Corporation relies upon the affidavit in reply dated 20th February, 2023 filed by Shri Hanumant Dnyandev Jadhawar, Administrative Officer, Solapur Municipal Corporation, stating that the Petitioner could not have been continued on the post since it was declared as 'Lapsed'. However, the Corporation does not dispute that the issue whether the Petitioner could be termed as being surplus to the extent of the salary grants available, is a decision to be taken by the education department of the Corporation.

7. Needless to state, it is now well settled that a surplus teacher is entitled for salary to the extent of the grants that were extended, until he is absorbed in employment. In view of the above, we permit the Petitioner to tender a detailed representation containing dates, sequence of events and supporting documents, to the Corporation, Respondent No. 5 herein. We direct that, the Education Authorities shall take a decision as to whether the Petitioner could be declared surplus, on account of the fall in the number of students below the required strength, if the

Petitioner was occupying a post having 20% salary grants and if the appointment was approved.

8. Let such representation be filed within a period of 21 days from today. The Corporation would endeavour to decide the said representation within a period of 45 days, thereafter. If required, the Corporation can invite the Petitioner for a hearing on any specific issue which needs to be clarified. In the event, the Petitioner is aggrieved by any order passed by the Corporation, he would be at liberty to avail of a remedy as may be permissible in law.

9. Considering the above order, this **Writ Petition is disposed off**. Rule is discharged.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)