

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1590 OF 2025

WITH

INTERIM APPLICATION NO. 1504 OF 2025

IN

WRIT PETITION NO. 1590 OF 2025

Akhilesh Kumar Rai

...Petitioner

Versus

The Education Inspector & Ors.

...Respondents

Ms. Pooja Malik, Advocate for the Petitioner.

Ms. A.A. Purav, AGP for Respondent Nos.1, 4 & 5/State.

Mr. Suyash Gadre a/w Mr. Abhishek Thoke, Advocate for Respondent No.2

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CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 5th FEBRUARY, 2025

P.C. :-

1. On 24th October, 2024, the Division Bench of this Court [Coram : Ravindra V. Ghuge & M.M. Sathaye, JJ.] had passed the following order :-

“1. Not on Board. Mentioned at 10.30 a.m. urgently. Taken on Production Board.

2. We have considered the submissions of the learned Advocate for the Petitioner. Since the matter

was filed yesterday, the copy of the Petition is not served on the office of the Government Pleader.

3. Issue notice to the Respondents, returnable on 27.11.2024.

4. The learned AGP waives service of notice for Respondent Nos. 1, 4 and 5.

5. We have perused the reasoned order passed by the Education Inspector. Prima facie, it appears that the senior most teacher Respondent No.2 herein, was purportedly pressurized by the Headmaster to grant NOC and to decline a transfer from 40% aided establishment to 60% aided establishment, which resulted in Petitioner stealing march over her and was transferred to 60% aided establishment. It is on the serious complaint made by Respondent No.2 that the matter got investigated and the Education Department came to a conclusion that Respondent No.2 was pressurized to issue NOC which favours the Petitioner.

6. Prima facie, it is unpalatable that a teacher would decline a transfer from 40% grant-in-aid establishment to 60% grant-in-aid establishment, which gives a teacher higher monetary benefits.

7. In view of the above, we are protecting the service of the Petitioner only to the extent of his earlier stage of 40% grant-in-aid since there is no dispute on his entitlement to 40% grant-in-aid.

8. All office objections to be removed on or before 21.11.2024, failing which, this Petition shall stand dismissed without reference to the Court, on 22.11.2024.”

2. The Education Officer of the Corporation Mr. Mushtak
Mahammad Shaikh, Education Inspector, Suburban North Division,

Chembur Mumbai, the Applicant herein, has prayed that this Court should vacate the ad-interim order, since the Petitioner misled this Court and by suppression of facts, has received an ad-interim relief.

3. The learned AGP sought a pass-over and submits after taking instructions that the Education Officer desires to withdraw the order dated 14th October, 2024, since it was passed without hearing the Petitioner. The learned Advocate representing Respondent No.2 submits that all contentions of the stakeholders may be kept open and a rehearing may be directed.

4. In view of the above, this **Writ Petition is disposed off** by recording that the impugned order dated 14th October, 2024, stands withdrawn and nullified. The Education Officer would intimate the Petitioner as well as Respondent Nos.2 and 3, of the date of hearing, which shall be with clear seven days notice. All the stakeholders would appear before the Education Officer and he shall conduct a hearing. After concluding the hearing, he shall pass a reasoned order, which would be served upon all the stakeholders. Let this exercise be completed within 60 days from today.

5. We make it clear that the Education Officer would not be influenced by the earlier order passed by him or by any observations made by us, in the order dated 24th October, 2024.

6. Needless to state, the Petitioner would be entitled for such salary as was being paid to him prior to the passing of the impugned order and such payment shall be continued, until a fresh order is passed. Arrears shall be calculated and shall be paid to the Petitioner, within 45 days.

7. Pending **Interim Application** would not survive and **stands disposed off**.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)