



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13403 OF 2025

Damodhar s/o Ganpatrao Gaikwad

.. Petitioner

Versus

1. The State of Maharashtra
Through its Secretary
School Education and Sports
Department, Mantralaya,
Mumbai-32.
2. The Deputy Director of Education,
Chhatrapati Sambhajanagar.
3. The Education Officer (Primary),
Jalna, District Jalna.
4. The Zilla Parishad, Jalna,
Through its Chief Executive Officer,
Primary Education Department,
Jalna, District Jalna.
5. Dr. Babasaheb Ambedkar Samaj
Seva Mandal, Jalna,
Through its Secretary,
Jalna, District Jalna.
6. Parivartan Primary School,
Through Headmaster, Jalna,
District Jalna.

.. Respondents

...
WITH
CIVIL APPLICATION NO.166 OF 2026
IN WP/13403/2025

...

Mr. Swapnil Patunkar, Advocate h/f M/s. J. P. Legal Associates, Advocate for the petitioner.

Mr. S. B. Narwade, AGP for the respondent Nos.1 and 2/State.

...

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

DATE : 08 JANUARY 2026

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Civil Application No.166 of 2026 has been filed for production of documents. For the reasons mentioned in the Civil Application, Civil Application No.166 of 2026 stands allowed and disposed of.

2. Present petition has been filed for following reliefs :-

“C) By issuing the Writ of Mandamus or any other appropriate writ, directions or any other order in the likewise nature the respondent Nos.2 to 5 may kindly be directed to fix the salary of the petitioner as per the 6th and 7th pay commission from 19.01.2006 to 01.05.2018.

D) By issuing the writ of mandamus or any other appropriate writ, directions or any other order in the likewise nature the respondent Nos.2 to 5 may kindly be directed to grant of retirement benefits/consequential benefits or arrears as per 6th and 7th pay commission from 19.01.2006 to 01.05.2018.”

3. The petitioner has come with the case that after completing his SSC, he was appointed as untrained primary teacher in respondent No.5 school on 11.06.1993. Thereafter, he was made permanent vide order

dated 18.06.1994 in respondent No.6 school. His services as untrained primary teacher were approved by respondent No.3 from time to time. According to the petitioner, he completed D.Ed. in 2005 and became trained teacher and his services in that capacity came to be approved with effect from 07.02.2005, however, he was issued with a show cause notice on 26.07.2005 for cancellation of postal D.Ed. admission purported to be issued on the ground of illegalities by the Maharashtra State Educational Research and Training Council, Pune. The petitioner filed reply to the show cause notice and by order dated 31.12.2005, the said institution cancelled his D.Ed. degree. The petitioner had filed Writ Petition No.571 of 2006 challenging the action of cancellation of his postal D.Ed. degree and then he had prayed for interim stay to the operation and implementation of the order dated 31.12.2005. This Court had granted *status quo* by order dated 25.01.2006, however, the said writ petition came to be dismissed. According to the petitioner, a Coordinate Bench of this Court in bunch of Writ Petitions bearing No.610 of 2006 and companion matters had set aside the impugned orders passed by the authorities cancelling the admission of those petitioners and also observed that all the consequences would follow. The said order came to be passed on 07.12.2010. Then the petitioner states that Criminal Writ Petition No.47 of 2004 was filed alleging fraud in postal D.Ed. and to take

action against those erring persons. This Court by order dated 09.03.2020 disposed of the said writ petition as has become infructuous. The petitioner got retired by superannuation on 31.05.2018 though he was getting salary till his retirement; retiral benefits and pension was not granted to him. Benefit of 6th and 7th pay commission and the pay fixation also has not been granted by the respondent authorities to the petitioner. Therefore, he made several representations on 19.09.2017, 07.09.2020, 08.06.2023 and 06.01.2025 to respondent Nos.2 and 3 and prayed for fixation of pay as per 6th and 7th pay commission and for grant of retiral benefits. When there is no response, he has filed the present petition.

4. Learned Advocate for the petitioner has taken us through the entire documents and reiterated the contentions in the pleadings. He submits that when similarly situated persons were granted benefit, the petitioner is also entitled to get the same.

5. Here, it is to be noted that though in several matters, this Court had allowed the writ petitions filed and set aside the orders of cancellation of D.Ed. admissions of those petitioners, yet the fact remains is that the petitioner himself in his pleading has stated that he had challenged the action of cancellation of postal D.Ed. passed against him

in Writ Petition No.571 of 2006. His Writ Petition No.571 of 2006 came to be dismissed. He has not stated that he had challenged the said order of dismissal before Hon'ble Supreme Court or not. He has also not stated that after the bunch of Writ Petitions bearing No.610 of 2006 with companion matters came to be allowed on 07.12.2010, whether he had approached this Court for review. His total inaction and acceptance of the decision in his petition i.e. Writ Petition No.571 of 2006 is a major hurdle.

6. Another fact in view of the prayer clause is to direct respondent Nos.2 and 3 to fix the salary of the petitioner as per 6th and 7th pay commission from 19.01.2006 to 01.05.2018. His first representation appears to be dated 19.09.2017. When he is seeking pay fixation from 19.01.2006; till 19.09.2017 why he had kept mum, is a question. There is absolutely no reason as to why he is coming before this Court belatedly. There is no prayer for directions to respondent Nos.2 to 5 to decide the representation of the petitioner and, therefore, when the petitioner has accepted the verdict, we do not find this to be a fit case where we should exercise our powers under Article 226 of the Constitution of India.

7. The writ petition stands dismissed, however, if a fresh representation is made giving all the details to respondent Nos.2 to 5,

then respondent Nos.2 to 5 to consider the same and take a decision on the same within a period of two months from the date of such representation.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm