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

WRIT PETITION NO. 9218 OF 2012

Veena Haresh Sadhwani and Ors. ... Petitioners.
V/s.
The President/Secretary, Hyderabad (Sind)
National Collegiate Board and Ors. ... Respondents.

***With
WRIT PETITION NO. 2677 OF 2016***

Renuka Sughanlal Rupani and Ors. ... Petitioners.
V/s.
The Hyderabad (Sind) National
Collegiate Board through Secretary and Ors. ... Respondents.

***With
WRIT PETITION NO. 3395 OF 2016***

Seema Ram Karachandani and Ors. ... Petitioners.
V/s.
The President, Hyderabad (Sind)
National Collegiate Board and Ors. ... Respondents.

***With
WRIT PETITION NO. 4191 OF 2016***

Lata Suresh Asrani and Anr. ... Petitioners.
V/s.
The Hyderabad (Sind) National Collegiate
Board through the Secretary and Ors. ... Respondents.

With
WRIT PETITION NO. 4878 OF 2013

Geeta Manohar Chawla ... Petitioner.
V/s.
The Hyderabad (Sind) National Collegiate
Board, through the Secretary and Ors. ... Respondents.

With
WRIT PETITION NO. 5311 OF 2011

Pratibha Dattatray Kulkarni and Ors. ... Petitioners.
V/s.
Keraleeya Samajam and Ors. ... Respondents.

With
WRIT PETITION NO. 5338 OF 2000

Keraleeya Samajam and Ors. ... Petitioners.
V/s.
State of Maharashtra and Ors. ... Respondents.

With
CIVIL APPLICATION NO. 2867 OF 2013
in
WRIT PETITION NO. 9218 OF 2012

Shaima Sudhakaran and Ors. ... Applicants
V/s.
Keraleeya Samajam and Ors. ... Respondents.

Mr. V.N. Tayade for the Petitioner in WP 9218/12.
Mr. S.K. Gawade for the Petitioner in WP 2677/16 and 4191/16.
Mr. A.G. Kothari for the Petitioner in WP 5338/00
Mr. S.M. Kamble for Respondent No.3 in Writ Petition No.
9218/12.

Mr. M.M. Pabale, AGP for the Respondent -State.

Mr. Vinayak Kumbhar I/b. Mr. N.V. Bandiwadekar for the Petitioner in WP 5311/13.

Mr. Vishal Kanade a/w. Ms. Deepa Bisht I/b. Tushar Garodia for Respondent No.1 in WP 4878/13, WP 9218/12, WP4161/16, WP 2677/16 and for Respondent Nos. 1 to 3 in WP 3395/16.

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M. JAMDAR, J.***

DATE : 28 JUNE 2019.

P.C. :-

Heard learned Counsel for the parties.

2. It is not in dispute that the Writ Petitioners in the captioned Petitions are or were employees in the teaching and non-teaching cadre of private schools which were recognized by the Education Department of the State of Maharashtra. It is also not in dispute that service conditions including salary to be paid is governed by the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Rules, 1981 framed in exercise of power conferred by Section 4 of the Act.

3. It is also not in dispute that pay scale for teaching and non-teaching staff in the Primary as well as Secondary Schools is

governed by Rule 7 of the Rules of 1981 and Clause (I) of the Rule requires salary to be paid in the scale as notified in Schedule - C to the Rules of 1981 as amended from time to time.

4. The legal position not being in dispute, the issue which arises for consideration in the Writ Petitions is one of fact. The question of fact is whether the salary disbursed to the Writ Petitioners by the respective school was in conformity with the scale prescribed in Schedule – C to the Rules of 1981 at the time when salary was disbursed. Meaning thereby as and when the Schedule was amended whether replacement scale was implemented.

5. This exercise needs to be carried out by the Deputy Director of Education, Education Department, State of Maharashtra.

6. Needless to state it Rules occupy the field, an order cannot be passed by any Authority contrary to the Rules.

7. Thus, declaring that the entitlement of the Petitioners is to receive wages in pay scales as per Schedule – C to the Rules of 1981, we dispose of the Petitions issuing a direction to the Deputy Director (Education), State of Maharashtra to receive representation from all teaching and non-teaching staff of the Respondent – School (impleaded as Respondent in the above captioned Petitions). In the

representation, the staff would specify their claim with reference to Schedule – C and the replacement scales introduced as and when the Schedule was amended. The Respondent – School would likewise respond justifying the salary disbursed with reference to the pay scales notified in the Schedule from time to time. The Deputy Director would then determine whether the teachers as well as non-teaching staff have received correct monthly salary and if it is found that less salary is paid, directions shall be issued to the respective schools to pay the arrears. Amounts received by the staff shall be of course adjusted.

8. The contention of learned Counsel for the Schools to restrict arrears to three years preceding the filing of the Writ Petition is noted and rejected for the reason law is clear. Liability as per law is also clear and thus there is no reason to deny full wages not being paid to the teachers.

9. The representation in terms of the present decision shall be made to the Deputy Director (Education), State of Maharashtra within four weeks who shall pass necessary orders within further eight weeks. If it is found that less wages were paid, the Director of Education shall ensure that his order is complied with. No costs.

N.M. JAMDAR, J.

CHIEF JUSTICE