

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 2754 OF 2001

THE SECRETARY, SWAMI VIVEKANAND S.S. KOLHAPUR & ORS  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS.

...  
Advocate for Petitioners : Mr. K J Ghute Patil  
AGP for Respondent No.1: Mr. S.R. Palnitkar  
.....

**CORAM : A. V. NIRGUDE AND  
V. K. JADHAV, JJ.**

**DATED : 13<sup>th</sup> JANUARY, 2015**

**P.C. :-**

1. The petitioners have narrated their grievance as under;-
2. The petitioner No.1 is educational institution. The petitioner No.3 is a Teacher, who was appointed as physical instructor. He was initially appointed on the post of Physical instructor with petitioner No.1, College at Ichalkaranji. Thereafter, petitioner No.1 had transferred the petitioner No.3 from Ichalkaranji to petitioner No.2 Law College vide order dated 17.4.1997. The petitioner No.3 served with petitioner No.2 Law College for a period of six months. The Education Department did not grant approval for the post of petitioner No.3 as Physical Instructor for the Law College on the ground that the Law College did not need Physical Instructor. This

petition is challenging the decision of not giving approval to the post of petitioner No.3 for six months, as Physical Instructor with petitioner No.2 Law College.

3. The petitioner No.1, before effecting transfer of petitioner No.3 to petitioner No.2 Law College, ought to have realized that the post of Physical Instructor did not exist in the said Law College. The Law College at least in those day was part time College. It is post graduate college and so the Government was justified in thinking that such college did not require the post of Physical Instructor. Such decision of the Government was a policy decision and cannot be challenged under Article 226 of Constitution of India. The petitioners have no case to compel the Government to pay petitioner No.3 the salary for the post of Physical Instructor in Law College. In view of the above, the petition should fail and it is accordingly dismissed. Rule discharged.

**( V. K. JADHAV, J.)**

**( A. V. NIRGUDE, J. )**

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