

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION No. 2160 OF 2002

Suresh s/o. Bhaskar Patil .. Petitioner
Age. 32 years, Occ. Service
as Asst. Teacher in Shri Sant
Muktabai Secondary School, Manur,
Budrak, Tq. Bodwad, Dist. Jalgaon.

Versus

1. The State of Maharashtra .. Respondents
2. The Education Officer (Secondary)
Zilla Parishad, Jalgaon.
3. Shri Sant Muktabai Sanstha,
Muktainagar, Tq. Muktainagar,
Dist. Jalgaon, through President.
4. Head Master,
Shri Sant Muktabai Secondary
High School, Manur Budruk,
Tq. Bodwad, Dist. Jalgaon.
5. Ajabrao s/o. Vyankatrao Patil
Age. 40 years, Occ. Service [t],
R/o. Morgaon, Tq. Raver,
Dist. Jalgaon.

Mr. R.J. Godbole, Advocate for the petitioner.
Mr. K.J. Ghute Patil, AGP for respondent/State.
Mr. P.R. Patil, Advocate for respondent Nos. 3 & 4.
Mr. G.V. Wani, Advocate for respondent No.5.

**CORAM : A.V. NIRGUDE &
V.K. JADHAV, JJ.
DATED : 08.01.2015**

ORAL JUDGMENT [PER : A.V. NIRGUDE, J.] :-

1. Heard. The facts leading to this litigation are as under:-

2. The petitioner secured education up to M.Sc. B.Ed. On 27th November, 1999, respondent No.3 advertised a post of Assistant Teacher, who should possess qualification of B.Sc. B.Ed. The petitioner applied and was selected by the Committee. He was appointed on probation for two years on 01.01.2000. Respondent No.5 was also appointed. Apparently, both these cases were sent for approval to the Education Officer. The Education Officer granted approval for appointment of respondent No.5 only. Within few days, he realized that he had committed mistake and cancelled approval granted in favour of the respondent No.5. This time he granted approval to the appointment of the petitioner. Again for the reasons best known to the Officer on 10th April, 2000, he cancelled the earlier order and granted approval to the appointment of respondent No.5 and withdrew the approval which he had given in respect of the appointment of the petitioner. The petitioner continued to work but could not receive salary for want of approval. Therefore, he came to this Court. The Education Officer by submitting reply to the petition admitted that the approval granted for the

appointment of the petitioner was wrongly withdrawn on 10th April, 2000. He also mentioned that the qualification of respondent No.5 was not sufficient as per the advertisement.

3. In view of the unequivocal admission of error on the part of the Education Officer, this petition deserves to be allowed. We, however, make it clear that this judgment should not be construed as judgment against respondent No.5. His selection and approval to his appointment is not connected to the cause of action for this petition. We are told that respondent No.5 has already filed Writ Petition No.1031 of 2008 challenging the decision of School Tribunal which confirmed his termination. Therefore, the petition stands allowed as per following order :-

4. Respondent No.2 shall accord approval to the appointment of the petitioner and the petitioner shall be paid unpaid salary as per rules, if it is not paid. Rule made absolute accordingly. No costs.

[V.K. JADHAV, J.]

[A.V. NIRGUDE, J.]