

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 3087 OF 2014

Sudhir Rangnath Rathod-Patil & Ors.	...	Petitioners
vs.		
The State of Maharashtra & Ors.	...	Respondents

Mr. A.J. Kandarkar, Advocate for the petitioners.
 Mr. I.M. Khairdi, Advocate for the respondent no. 3.
 Smt. S.S. Bhende, AGP for the respondent nos. 1 and 2/State.

**CORAM : SMT. VASANTI A. NAIK &
C.V. BHADANG, JJ.**
DATE : 25th February, 2015.

P.C.

By this Petition, the petitioners seek a direction to the respondent no. 2 to grant approval to the appointment of the petitioners on the posts of Assistant Teacher. The petitioners also seek a direction to the respondent no. 4 to treat the petitioners to be in service and allow the petitioners to attend the College and sign the muster-roll.

The learned counsel for the respondent-management raises a preliminary objection to the tenability of the Writ Petition. It is stated that from the averments made in the Writ Petition, it is clear that the petitioners services were terminated, as they were not permitted to attend the College and sign the muster-roll. It is stated that the petitioners had filed a Civil Suit challenging the termination, but the same was withdrawn.

It is stated that the petitioners ought to have filed an Appeal under section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulations Act, 1977.

On hearing the learned counsel for the parties, we uphold the preliminary objection raised on behalf of the respondent-management and decline to entertain the Writ Petition. Even as per the averments made in the petition, the respondent-management did not permit the petitioners to attend the College and sign the muster roll. The services of the petitioners were “otherwise terminated” and the petitioners ought to have challenged the termination in the Appeals under section 9 of the Act of 1977. The issue whether the petitioners were entitled for grant of approval to their appointment is an incidental issue, which could be decided by the Tribunal in the Appeal under section 9 of the Act.

In view of the aforesaid, the Writ Petition is dismissed, with no order as to costs.

The points raised in the Petition are kept open.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)