

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1698 OF 2015
IN
WRIT PETITION NO.8699 OF 2009**

Krishna Gundu Bhaskar

..Applicant

Vs.

Mallappa Jotiba Sutar & Ors.

..Respondents

Mr. L. S. Deshmukh for the Applicant

Mr. M. S. Topkar for the Respondent No.1

Mr. R.B. Paranjape i/b Mr. R. A. Rajhans for the Respondent No.2

Mrs. V. S. Nimbalkar AGP for the Respondent No.4

CORAM : R. M. SAVANT, J.

DATE : 5th AUGUST, 2015

P.C.

1 The above Civil Application has been filed for the following reliefs:

(a) Pending the hearing and final disposal of the above Petition grant stay to the operation, implementation and execution of the clause Nos.2 and 3 of the impugned judgment and order dated 19-8-2009 passed by the School Tribunal, Kolhapur in Appeal No.7 of 2005.

(b) Pending hearing and final disposal of this Application grant stay to the operation, implementation and execution of the clause Nos.2 and 3 of the impugned Judgment and Order dated 19-8-2009 passed by the School Tribunal, Kolhapur, in Appeal No.7 of 2005.

2 The above Petition challenges the order dated 19-8-2009 passed by the Learned Presiding Officer, Kolhapur, by which order, the Appeal filed by the Respondent No.1 herein i.e. Mallappa Jotiba Sutar, came to be allowed and resultantly the following directions / declarations were issued :

“(2) it is hereby declared that the impugned order of otherwise termination dated 8-2-2005 is illegal, void and bad in law. Hence said order of termination hereby stands quashed and set aside.

(3) The Respondent No. 1, 2 and 5 are directed to reinstate the appellate on his original post with full back wages and continuity in service w.e.f. 8-2-2005.

(4) The Respondent No.3 is directed to recover the payment of salary paid to Respondent No.4 as he had no right to remain in service and to pay it to the appellant.

(5) The Respondent No.3 is directed to give approval to the appointment of the appellant with retrospective effect. The approval given by Respondent No.3 to the appointment of Respondent No.4 is hereby stands cancelled.

(6) The Respondent No.3 Education Officer is at liberty to lodge police complaint relating to fabricated appointment record relating to Respondent No.4 and to report compliance to this Court at an earliest possible.”

3 The above Petition had come up for admission before a Learned Single Judge of this Court on 17-11-2009 when Rule came to be issued and as and by way of interim relief the directions contained in clauses 4, 5 and 6 of the order passed by the School Tribunal, came to be stayed. However the declarations / directions as contained in clauses 2 and 3 were not stayed. The instant Civil Application has now been filed for the said reliefs.

4 It is required to be noted that the Petitioner was heard when the said interim relief was granted. There is no change in circumstances so as to justify the filing of the above Civil Application for seeking reliefs which can be said to have been rejected by the Learned Single Judge of this Court whilst admitting the above Petition. Hence the reliefs sought by the Applicants / Petitioners by way of the above Civil Application, cannot be granted. The above Civil Application is accordingly rejected.

[R.M.SAVANT, J]