

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10880 OF 2015

Vivek Bhausahab Jagtap .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

Mr. P. D. Dalvi a/w Mrs. S. Y. Lengare, Advocate for the petitioner.
Mr. V. N. Sagave, AGP for R. Nos. 1 to 3.
Mr. Sagar Ambedkar, Advocate for R. Nos. 4 & 5.

CORAM:-ANOOP V. MOHTA &
V. L. ACHLIYA, JJ.
DATED : -12/08/2015

ORDER:

Rule. Returnable forthwith. By consent of the parties,
taken up for final disposal.

2 The petitioner has challenged the order of Education
Officer dated 7/8/2014 cancelling the approval to the appointment of
the petitioner on the post of 'Shikshan Sevak', without giving any
opportunity of hearing to the petitioner.

3 This Court in Writ Petition No. 7794 of 2014 (Coram:
Smt. Vasanti A. Naik & Shri C. V. Bhadang, JJ.), in a similarly

situated matter and identical facts and reasons recorded as under:

“On hearing the learned counsel for the parties, it appears that the Education officer could not have cancelled the approval to the appointment of the petitioners without affording an opportunity of hearing as it is well-settled that the approval cannot be cancelled without hearing the person concerned. In the instant case, admittedly, the Education Officer, who passed the order did not hear the petitioners. The Deputy Education Officer who heard the petitioners was not competent to cancel the approval. It is well- settled that the authority which decides the matter and passes the order is obliged to give an opportunity of hearing. The Asstt. Govt. Pleader is not justified in submitting that an opportunity was not necessary before the Education Officer cancelled the approval as the petitioners were duly heard by the Deputy Education Officer. It was incumbent on the part of the Education Officer to have heard the petitioners before passing the impugned order.

Hence, for the reasons aforesaid, the Writ petition is partly allowed. The impugned order is quashed and set aside. The Education Officer may take appropriate action in the matter of cancellation of the approval after hearing the petitioners. The petitioners undertake to

remain present before the Education officer on 23rd March 2015, so that issuance of notice to the petitioners could be dispensed with. The Education Officer should decide the matter in accordance with law. The points raised in the petition are kept open. No costs”.

4 We are inclined to dispose of the present writ petition by passing the following order:

- i) The impugned order is quashed and set aside;
- ii) The petitioner to appear before the Education Officer on 26th August, 2015 to avoid further delay including process of issuance of notice;
- iii) The Education Officer to decide the matter in accordance with law as early as possible.
- iv) All points are kept open;
- v) The petition is disposed of in above terms with no order as to costs.

(V. L. ACHLIYA, J.)

(ANOOP V. MOHTA, J.)

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