

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION No.2088 OF 2013

(Shishu Vikas Education Society and Ors. vs. The Education Officer (Sec.), Z.P., Nagpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.

DATE : 24th FEBRUARY, 2015.

Heard Mr.Anup Gilda, learned Counsel for the petitioners and Mrs.K.S.Joshi, learned A.G.P. for the respondent.

Petitioner no.3 came to be appointed as a Headmaster on 30.9.2012 and the respondent granted him approval, as such, on 24.1.2013.

It appears that, on 21.3.2013, the petitioner was caught red handed in a raid by Anti-Corruption Bureau and was in custody till 25.3.2013. He has rejoined thereafter and he is presently working as a Headmaster. In this background, on 22.3.2013, approval granted to the appointment of the petitioner on 24.1.2013 has been cancelled.

Apart from other contentions, Mr.Anup Gilda, learned Counsel for the petitioners submits that the act of cancellation of approval is in breach of the principles of natural justice.

Mrs.K.S.Joshi, learned A.G.P. for the respondent submits that direct appointment was made in violation of provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Act and Rules. The advertisement

was published on 29.9.2012 and the interviews were conducted on the very next day and then immediately appointment has been made. Thus, there was unprecedented hurry in the matter. The learned A.G.P. also points out that the raid of Anti-Corruption Bureau has been mentioned in the impugned order while narrating facts.

The learned A.G.P. also adds that the close relatives of petitioner were the members of Managing Committee of the employer.

We find that, on 24.1.2013, the very same Education Officer granted approval to the appointment of the petitioner. It has been cancelled after about two months. In this situation, if approval already granted was to be cancelled, it was necessary to extend opportunity of hearing to the petitioner. That has not been done.

We, therefore, set aside the impugned order only on that ground leaving all other contentions open.

The respondent shall extend an opportunity of hearing to petitioner no.3 and shall also issue show cause notice to him asking him as to why his approval should not be cancelled.

We direct the said petitioner to appear before the respondent for the said purpose on 6.5.2015 and to abide by his further instructions in the matter. On that day, the Education Officer shall serve upon the petitioner the show cause notice and then the petitioner shall file suitable reply on it. Decision on the show cause notice shall thereafter be taken within next two months.

Leaving all other contentions open, with liberty to the petitioner to approach again if his grievance subsists

thereafter, we dispose of the Writ Petition. No costs.

JUDGE

JUDGE

jaiswal