

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

Writ Petition No.3015/2014

Wasimoddin Lehazoddin Patel VS. Education Officer (Secondary)
Z.P. Yavatmal and others.

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

Court's or Judge's
Orders.

Shri Apurv De, Advocate for the petitioner.
Shri P.A. Gode, Advocate for the respondent no.4.

**CORAM : SMT. VASANTI A. NAIK &
A.M. BADAR , JJ.**

DATED : APRIL 06, 2015.

Heard.

By this petition, the petitioner challenges the order of the respondent-Education Officer cancelling the approval to the appointment of the petitioner on the post of Head Master.

Inter alia, it is submitted on behalf of the petitioner that the impugned order is liable to be set aside as the petitioner was not heard before the respondent cancelled the approval to the promotion of the petitioner by the impugned order dated 19.6.2014. It is stated that it was necessary for the Education Officer to have heard the petitioner before cancelling the approval.

Ms. Taiwade, the learned Assistant Government Pleader appearing on behalf of the Education Officer has relied on the affidavit-in-reply filed on behalf of the respondents. It is fairly stated on behalf of the Education Officer that it does not appear from the affidavit-in-reply that the petitioner was personally heard. It is stated that the petitioner was served with the show cause notice and the reply sent by the petitioner to the Education Officer was considered by the Education Officer before cancelling the approval.

It appears on hearing the learned Assistant Government Pleader that the petitioner was not personally heard before the impugned order cancelling the approval to the promotion to the petitioner was passed. It is well settled that before cancelling of the approval, it would be necessary for the authority to grant a personal hearing to the employee concerned. In the instant case, since no such hearing was granted to the petitioner, the impugned order is liable to be set aside.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The impugned order is quashed and set aside. The Education Officer may consider cancelling the approval to the promotion of the petitioner

after hearing the petitioner. The petitioner undertakes to remain present before the Education Officer on 22nd April, 2015.

Order accordingly. No costs.

JUDGE

JUDGE

Ambulkar