

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

WRIT PETITION NO.6294/2012

Sudhir s/o Namdeorao Deshmukh

...Versus...

The State of Maharashtra, Through its Secretary, School Education and Sports
Department, Mantralaya, Mumbai – 32 and others

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

Court's or Judge's orders

Shri A.R. Ingole, Advocate for petitioner
Shri D.B. Patel, AGP for respondent nos.1, 5 & 6
Shri A.R. Rath, Advocate for respondent no.2
Shri M.M. Agnihotri, Advocate for respondent no.3

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : 11.09.2015

By this petition, the petitioner seeks a direction to the respondents to absorb the petitioner on the full time post of Physical Training Instructor in the School or College run by the respondent no.2 – Shikshan Sanstha.

According to the petitioner, the petitioner is working as a part-time Physical Training Instructor for nearly 26 years in the respondent no.3 - School run by the respondent no.2 – Sanstha. It is stated that though the School Tribunal has directed the respondent nos.2 and 3 to reinstate the petitioner on the post of Physical Training Instructor by setting aside the termination order dated 14.9.1991, the respondents have not absorbed the

petitioner as a full time Physical Training Instructor. It is submitted that as per the Government Circular, a post of full time Physical Training Instructor would be available for every 250 students in the School. It is stated that at the time when the petition was filed, there were 220 students in the respondent no.3 – School.

The learned Counsel for the respondents have strongly opposed the prayer made in the petition. It is submitted that the strength of the students in the respondent no.3 – School is only 220 and a post of full time Physical Training Instructor is not available. It is submitted that the petitioner's services as a part-time Physical Training Instructor were terminated and the Tribunal has set aside the termination order and directed the respondent nos.2 and 3 to reinstate the petitioner on the post of Physical Training Instructor. It is submitted that the petitioner has been reinstated as a part-time Physical Training Instructor after the appeal filed by him was allowed.

On hearing the learned Counsel for the parties, it appears that the relief sought by the petitioner cannot be granted. A direction to the respondent nos.2 and 3 to absorb the petitioner as full time Physical Training Instructor cannot be granted. Even according to the petitioner, at least, the strength of 250 students is required for creating a post of full time Physical Training Instructor. Admittedly, the strength of the students in the respondent no.3 – School is less than 250. The petitioner, therefore, cannot seek his absorption as a full time Physical Training Instructor. The submission made on behalf of the

petitioner that since the School Tribunal had directed the reinstatement of the petitioner as a Physical Training Instructor, it was necessary for the respondent nos.2 and 3 to reinstate the petitioner as a full time Physical Training Instructor, is ill-founded. After the judgment was rendered by the School Tribunal on 4.9.1996, the respondents have reinstated the petitioner as a part-time Physical Training Instructor as his services as a part-time Physical Instructor, were terminated.

Since there is no merit in the writ petition, the same is dismissed with no order as to costs.

JUDGE

JUDGE

Wadkar