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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1245/2005

Kevalchand S/o Ramchand Chaudhari,
Age 35 years, Occ.: Service,
R/o C/o Narayanrao Mote,
Ghayal Nagar, Kacheri Road,
In front of Town Hall, Jalna,
District Jalna.

...Petitioner..

Versus

1] The State of Maharashtra
through Director of Education,
(Secondary), Pune-1.

2] The Education Officer,
Secondary, Zilla Parishad,
Jalna.

3] Shri Jalna Gujrathi Samaj Sanstha,
Mutha Building, Jalna,
Through its Secretary.

4] C.T.M.K. Gujrati Vidyalaya,
Mutha Building, Jalna,
Through its Head Master.

...Respondents...

.....

Smt.A.N.Ansari, Advocate for petitioner.
Ms.S.S.Raut, AGP for Respondent No.1.
None appeared for Respondent Nos.3 & 4.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 15.12.2016

ORAL JUDGMENT (Per S.V. Gangapurwala, J.) :

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1] Smt.A.N. Ansari, learned counsel for the petitioner submits that the petitioner was appointed as a part time Librarian on 1.8.1998. As per the Government resolution of the year 1994, if the strength of students is above 1000, one post of full time Librarian is made admissible. The strength of the students was above 1000 and as such the petitioner was given approval as a full time Librarian on 1.2.2004. Subsequently, on 8.2.2004, the said approval was abruptly canceled. The learned counsel submits that the said order is without notice to the petitioner and without hearing the petitioner. The learned counsel submits that when the petitioner is entitled for the post of full time Librarian with effect from the date when the strength of students has crossed 1000, the impugned order canceling the approval already granted is illegal.

2] The learned AGP submits that the policy decision was taken by the Government resolution dated 26.3.2002 not to permit additional post after 2002-03 so as to reduce the financial burden. The permission granted by the respondents was not as per the Government policy and,

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therefore, the approval granted was withdrawn on 8.12.2004.

3] As per the Government resolution dated 28.6.1994, the post of part time Librarian is to be upgraded as full time Librarian in case the number of students exceed 1000. As the number of students had increased, the proposal was submitted by the institution seeking approval to the appointment of th petitioner as a full time Librarian with effect from 1.9.2004. The same was granted on 19.11.2014, however, abruptly vide the impugned order, it is canceled.

4] It is not disputed anywhere in the affidavit in reply filed by the respondents that the strength of the students of the institution had risen above 1000. It is also a fact that the approval was granted to the petitioner as a full time Librarian, however, the same was abruptly withdrawn without notice to the petitioner and without hearing the petitioner. We have also considered this aspect while passing the order in Writ Petition No.7779/2012. Even this Court at Nagpur in Writ Petition No.6630/2013 with connected writ petitions under order dated 28.1.2015 has given the similar benefit.

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5] Considering the above, the impugned order rejecting approval granted to the petitioner as full time Librarian is quashed and set aside. Further consequential benefits pursuant thereto be awarded to the petitioner. Rule is accordingly made absolute in above terms. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)