

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1682 OF 2015

Punamchand Eknath Bhairav,
Age 34 Year, Occu. Service, Nil
R/o. Arthe [B], Tal.Shirpur,
Dist. Dhule
At present R/o. Varul Ghusare,
Tq. Shindkheda, Dist. Dhule

PETITIONER

VERSUS

- 1] Shri N.C.Patil,
The Chairman,
Shri Deopur Vidhayak Saittee,
Dhule, Dist. Dhule
- 2] Shri Gurudutt Vidhyalay,
Varul-Ghusare,
Tal. Shindkheda, Dist. Dhule
- 3] The Head Master,
Shri Gurudutt Vidhyalay, Varul-Ghusare,
Tal-Shindkheda, Dist: Dhule
- 4] The Education Officer [Secondary],
Zilla Parishad, Dhule
Dist. Dhule

RESPONDENTS

...
Mr. Prakashsing B. Patil, Advocate for Petitioner
Mr. U.S.Patil, Advocate for Respondent Nos.1 to 3
Mr. A.V.Deshmukh, AGP for Respondent / State
...

**CORAM: S.S.SHINDE &
P.R.BORA, JJ.**

Date : 10th February, 2016.

ORAL JUDGMENT: [Per S.S.Shinde, J.]:

1] Heard.

2] Rule. Rule made returnable forthwith, and heard with the consent of the parties.

3] This Writ Petition takes exception to the letter dated 4th September, 2014, addressed by the Education Officer [Primary], Zilla Parishad, Dhule, to the respondent No.3.

4] The learned counsel appearing for the petitioner invited our attention to the Judgment and Order passed by the learned Single Judge of this Court in Writ Petition No.2930/2010 [Punamchand Eknath Bhairav Vs. Shri N.C. Patil & others], and submits that, Writ Petition filed by the petitioner was partly allowed. The respondent management was directed to reinstate the petitioner as Assistant Teacher as he was working up to 1st May, 2001 from 13.06.1994, and to extend all benefits of a permanent teacher, excluding the back-wages.

5] It is submitted that, in spite of the said order, the Education Officer instead of granting approval to the services of the petitioner for the period, which is mentioned in the said order, rejected the proposal for approval to the services of the petitioner.

6] On the other hand, the learned AGP appearing for the respondent – State submits that, by order dated 27th March, 2012, in Writ Petition No.2930/2010, the school management was directed to extend all benefits of a permanent teacher to the petitioner herein, and it was specifically observed that, the State is not liable to meet any responsibility for back-wages, or other financial implications. Keeping in view the said order passed by the learned Single Judge of this High Court, the Education Officer has rejected the proposal submitted by the respondent No.3 for approval to the services of the petitioner.

7] Learned counsel appearing for the respondent Nos.1 to 3 submits that, the proposal submitted by the respondent Nos.2 and 3 for approval to the services of the petitioner ought to have been favourably considered by the respondent No.4.

8] We have given careful consideration to the submissions of the learned counsel appearing for the petitioner, learned AGP appearing for the Respondent – State, and the learned counsel appearing for the respondent Nos.1 to 3. With their able assistance, perused the pleadings in the Petition, annexure thereto, and in particulars the Judgment and Order passed by the learned Single Judge of this Court in Writ Petition No.2930/2010. At the outset, it would be apt to reproduce the operative part of the order dated 27th March, 2012, passed by the learned Single Judge of this Court in Writ Petition No.2930/2010, which reads thus:

“a) The writ petition is partly allowed. The respondents management is directed to reinstate the petitioner as Assistant Teacher as he was working upto 1st May, 2001 from 13.6.1994 and to extend all benefits of a permanent teacher, excluding the back-wages.

The State is not liable to meet any responsibility for back-wages, or other financial implications.

Writ Petition allowed to the extent as above. No costs.”

9] Upon perusal of the contents of the letter written by the respondent No.4 to respondent No.3 dated 4th September, 2014, it appears that, respondent No.4 has not considered its statutory obligations so as to take decision about the approval to the services of the petitioner in terms of afore-mentioned directions issued by the learned Single Judge of this Court in Writ Petition No.2930/2010. It is true that, so far financial benefits and back-wages are concerned, it is observed in the order passed by this Court that, the State is not liable to meet any responsibility for back-wages, or other financial implications. Therefore, it follows from the said order that, respondent Nos.2 and 3 management has to pay the said financial benefits accrued in favour of the petitioner, in view of the order passed by the learned Single Judge of this Court in Writ Petition No.2930/2010. It was necessary on the part of the respondent No.4, to grant approval as a matter of formality, keeping in view the order passed by the High Court. However, without incurring any financial liability on the State or State Authorities so as to meet any financial burden for payment of back-wages, or to extent other financial benefits to the petitioner, by virtue of his reinstatement in the service of the respondent Nos.2 and 3.

10] In that view of the matter, that part of impugned communication i.e. refusal to grant approval to the services of the petitioner stands quashed. However, we make it clear that, so far the observations made in the impugned letter about responsibility of the management for payment of back-wages, and other financial implications is concerned, those observations have rightly been made by the Education Officer, and that part of the impugned communication has not been disturbed.

11] In the light of discussion herein above, respondent No.4 is directed to reconsider the case of the petitioner for approval keeping in view the discussion in the foregoing paragraphs, and the Judgment and Order passed by the learned Single Judge of this Court in Writ Petition No.2930/2010, as expeditiously as possible, and preferably within 6 weeks from today, and communicate the decision to the petitioner, so also, to the respondent Nos.1 to 3.

12] Rule made absolute in above terms. The Writ Petition stands disposed of accordingly.

13] Parties to act upon authenticated copy of this Judgment.

Sd/-
[P.R.BORA]
JUDGE

Sd/-
[S.S.SHINDE]
JUDGE

DDC