

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

WRIT PETITION NO. 3716 OF 2016

Kailash s/o Samadhan Chimkar ...Petitioner

VERSUS

The State of Maharashtra & ors. ...Respondents

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Shri G.K.Muneshwar, advocate for petitioner

Shri A.G.Magre, A.G.P. for respondent nos. 1 to 3

Shri A.G.Talhar, advocate for respondent nos. 4 and 5

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CORAM : S.S.SHINDE AND P.R.BORA, JJ.

DATED : 27th JULY, 2016

PER COURT :-

Heard learned counsel appearing for the petitioner and the learned A.G.P. for the respondents/State. Perused the pleadings in the petition, grounds taken therein and in particular the grounds assigned by the respondent/management while rejecting the request of the petitioner to grant leave.

2. Counsel appearing for the petitioner, at the cost of repetition, submits that the petitioner is meritorious candidate. He has completed the B.A. and M.A. course after approval by the management. He further submits that in case the order impugned in this petition is not interfered with and prayer is granted in favour of the petitioner, the petitioner will lose valuable opportunity in his life to complete B.Ed. course.

3. Learned counsel appearing for the respondent/management invited our attention to the reasons assigned in the impugned order. He submits that the conduct of the petitioner disentitles him from seeking any discretionary or equitable relief from the Writ Court. He submits that when the petitioner did B.A. and M.A. neither he applied to the management seeking permission to complete such course, nor the management has granted him permission for the same. The petitioner used to give threats to the members of

the management on the whole conduct of the petitioner to attend the classes of M.A., at the same time to attend the working hours of the school and also seeking the benefit of scholarship from the Government.

4. As already observed, the person availing the scholarship from the Government while in regular service cannot ask for the discretionary or equitable relief. After all, for granting leave or permission to prosecute the studies of B.Ed. it is necessarily for the management to find out from the work load available in the school and also other circumstances whether such permission can be granted. As rightly submitted by the counsel appearing for the respondent/management and for the reasons assigned in the impugned communication no permission can be granted to the petitioner to join the said course.

5. For the reasons aforesaid, to our opinion, the petitioner is entitled for discretionary or equitable relief.

6. Hence, the petition stands rejected.

(P.R.BORA, J.)

(S.S.SHINDE, J.)

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