

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5611 OF 2016

Arun S/o Shriram Devare,
Age-36 years, Occu-Service,
At Present Nil,
R/o Biladi, Tq. And Dist. Dhule – PETITIONER

VERSUS

1. The Education Officer (Secondary),
Zilla Parishad, Dhule,
Tq. And Dist. Dhule,
2. Mr.Dinesh Gulabrao Patil,
Age – Major, Occu-NIL,
R/o Ekvira Society,
Near Saibaba Mangal Karyalaya,
Devpur, Tq. And Dist. Dhule,
3. The Commissioner of Education,
State of Maharashtra, Pune – RESPONDENTS

Mr.Sachin S.Deshmukh, Advocate for the petitioner.
Mr.S.D.Kaldate, AGP for respondent Nos. 1 and 3.
Respondent No.2 served.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 20/09/2016

PER COURT :

1. I have heard the learned Advocate for the petitioner and the learned AGP on behalf of respondent Nos. 1 and 3. Despite paper publication under the orders of this Court dated 19/08/2016, none

appears for respondent No.2.

2. The issue as regards the legality of the appointment of the petitioner had led to his termination. He had succeeded as against his termination which was in oral form on 26/06/2007 in the light of the settlement and compromise between the petitioner and the educational institution. His proposal for approval was forwarded. The Education Officer noticed deficiencies on the part of the institution and had referred the matter to the Management. Subsequently, the Education Officer concluded that the appointment of the petitioner was legal.

3. Yet, the petitioner was terminated by letter dated 25/02/2009 w.e.f. 28/02/2009. By judgment dated 13/08/2009, his appeal was allowed by the School Tribunal and was granted reinstatement with continuity and back wages. WP No.5031/2011 filed by the Management was dismissed by this Court on 09/03/2012. The Special Leave to Appeal filed by the Management before the Supreme Court was dismissed on 26/04/2013.

4. Mr.Deshmukh, learned Advocate for the petitioner submits that the petitioner was being persecuted at the behest of Mr.Subhash

Patil, Chairperson of the Educational Institution since he wanted to legalize the appointment of his daughter Ms.Chetna Subhash Patil. He points out that by the order of the Education Officer dated 28/03/2016, the appointment of Ms.Chetna was held to be illegal and therefore approval was refused by the Education Officer. Said cancellation of approval has been challenged before this Court and the petition is pending.

5. Grievance is that respondent No.2 has now filed a complaint to the Education Officer alleging that the appointment of the petitioner is illegal. Grievance also is that once the petitioner has succeeded upto the Hon'ble Supreme Court and his appointment is held to be legal and he has been granted reinstatement with continuity of service, respondent No.2 appears to have been set up by the Management. Despite these facts, the Education Officer / Respondent No.1 herein has reopened the issue of legality of the petitioner's appointment by issuing a notice on 11/05/2016.

6. Learned AGP submits that the notice has been issued only because a complaint has been filed by respondent No.2. He submits that the hearing in the matter has still not commenced.

7. I find from the judgment of this Court dated 09/03/2012 that the conclusions arrived at by the School Tribunal with regard to the legality of appointment of the petitioner, has been sustained. The petition filed by the Management specifically contending that the appointment of the petitioner was illegal and the termination was legal, was negated by this Court and the dispute with regard to the appointment of the petitioner and his continuation in service was put to rest. The judgment of this Court dated 09/03/2012 was subjected to a Letters Patent Appeal No.139/2012 at the behest of the Management and the same was dismissed by order dated 14/08/2012. Subsequently, the Hon'ble Supreme Court dismissed the Special Leave Petition on 26/04/2013.

8. I find from the fact situation as above that the petitioner has been compelled to suffer rigours of litigation on numerous occasions. Issue as regards the legality of his appointment having been put to rest, does not therefore permit any further litigation to be launched against the petitioner on the count of the factum of his appointment.

9. The notice issued by respondent No.1 / Education Officer dated 11/05/2016 is quashed and the complaint filed by respondent No.2 dated 02/05/2016 stands rejected. This petition is, therefore,

allowed in the above terms.

10. At this stage, the petitioner submits that he has not been reinstated despite the judgments of the Tribunal, this Court and the Apex Court. Proceedings u/s 13 of the MEPS Act are pending before the Judicial Magistrate, F.C.Dhule, in STC No.2331/2010. It is, therefore, expected that the learned Magistrate shall decide the said proceedings expeditiously, keeping in view the above history of litigation between the parties.

(RAVINDRA V. GHUGE, J.)