

THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD.  
APPELLATE SIDE JURISDICTION

**WRIT PETITION NO. 9715 OF 2013**

Bhaskar s/o Ramrao Rasal,  
Age 39 years, Occu. Nil,  
R/o Lohara, Tq. Lohara,  
Dist. Osmanabad.

... **PETITIONER**

**VERSUS**

1. The State of Maharashtra,  
Through Deputy Director,  
Education, Officer of Divisional  
Director Latur, Latur Division, Latur.

(Copy to be served on G.P.  
High Court Bench at Aurangabad.)

2. Bhartiya Rashtriya Shikshan Sanstha,  
Lohara, Tq. Lohara, Dist. Osmanabad,  
Through its Secretary,  
Shri Sheshrao s/o Shanbkaro Pati,  
Age major, Occu. Service,  
R/o Yeshwantrao Chavan College,  
Tuljapur, Tq. Tuljapur,  
Dist. Osmanabad.

3. The Principal / Head Master,  
Netaji Subhashchandra Bhose,  
Junior College Lohara,  
Tq. Lohara, Dist. Osmanabad.

... **RESPONDENTS**

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Mr. Santsh N. Patne, Advocate for the Petitioner.  
Mr. U. H. Bhogale, AGP for Respondent No.1  
Mr. V. R. Dhorde, Advocate for Respondent Nos.2 and 3.

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CORAM : **P. R. BORA, J.**

DATE : 13<sup>th</sup> June, 2016.

**ORAL JUDGMENT:**

. Rule. Rule made returnable forthwith. By consent of the learned counsel appearing for the parties, the matter is taken up for final disposal.

2 The order dated 27<sup>th</sup> August, 2013 passed by the School Tribunal, Solapur in Appeal No.107 of 2011 is challenged in the present petition by the Appellant, who had filed said appeal before the School Tribunal. The learned counsel appearing for the Petitioner submitted that the Petitioner was initially appointed in the year 2001 as a lecturer for Hindi subject. The learned counsel further submitted that his said appointment was approved by the Deputy Director of Education, Aurangabad. The learned counsel further submitted that from 1<sup>st</sup> July, 2008 the Petitioner was appointed as Shikshan Sevek. It is the contention of the Petitioner that before his termination, the Petitioner had rendered services for the period of 3 years and 3 months and in such circumstances, he would have been held to be deemed permanent teacher and his services could not have been

terminated by the Management. The learned counsel submitted that for his subsequent appointment also approval is granted by the Education Officer. The learned counsel further submitted that all these aspects are overlooked by the School Tribunal, which has resulted in dismissal of appeal filed by the Appellant causing injustice to him. He, therefore, prayed for setting aside the order passed by the School Tribunal and to direct his reinstatement.

3           Shri V. R. Dhorde, learned counsel appearing for Respondent Nos.2 and 3 submitted that the Petitioner was appointed as a part time teacher for Hindi subject and since workload was reduced subsequently, in the staffing pattern one post was reduced and as such the services of the Petitioner were put to an end. The learned counsel bringing to my notice some of the observations made by the School Tribunal in para No.17 submitted that the learned School Tribunal has rightly refused to grant any relief to the Petitioner. The observations made by the School Tribunal in para 17 are relevant, which read thus:

“17) As per the contention of the respondents Nos. 1 & 2 as well as the respondent No.3 the Dy. Director of Education, the strength of the student was discussed in

the year 2010-11, as a result of that the divisions of 11<sup>th</sup> & 12<sup>th</sup> Std. i.e. one division each were reduced and for that reason the appellant came to be terminated. It is to be noted here that as per rule 25-A and 26 of the M.E.P.S.(C.S.) Rules when the post itself is abolished due to the reduction in the divisions or the strength of the students then such employee can be retrenched. In the present case, the appellant was not full time Asst. Teacher, the school was receiving 40% grants for 11<sup>th</sup> & 12<sup>th</sup> Std. classes, for the reasons a part time teacher cannot be absorbed in some other school, for the reasons the termination of the appellant is not at all illegal. The sanctioned posts were reduced to one for the Hindi subject due to the reduction of the students as reveals from the documents produced on record by respondent Nos.1 & 2 alongwith Exh.16. As one Kamble who was duly appointed was working in the school as permanent teacher, the appellant who was working as part time teacher came to be terminated therefore, the termination of the appellant is not at all illegal and hence, the termination cannot be quashed and set aside, for the reasons the appellant is not entitled to be reinstated with continuity of service and with full back wages. For the reasons, I answer my finding to points Nos.2 & 3 in the negative.”

4           After having perused the aforesaid observations, it does not appear to me that any illegality is committed by the School

Tribunal in dismissing the appeal filed by the present Petitioner. Nothing has been brought to my notice showing that the services of the Petitioner could have been protected even though the workload was not available for the said post and the post on which he was working was not a sanctioned post. In the circumstances, the writ petition appears to be devoid of any substance and deserves to be dismissed. It is accordingly dismissed without any order as to the costs. Rule discharged.

**[ P. R. BORA, J. ]**

*ndm*