

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.8366 OF 2014**

Padwalkar Deepak Prakash	.. Petitioner
vs	
State of Maharashtra & ors	.. Respondents

Mr.J.G.Reddy (Aradwad) for Petitioner
Mr.Vikas Mali Asst.Govt.Pleader for Respondent nos.1 & 2
Mr.A.B.Tajane for Respondent nos. 3 and 4.

...
**CORAM: NARESH H.PATIL AND
G.S.KULKARNI, JJ**
DATE: 5TH FEBRUARY 2016

P.C.

Rule. Rule is made returnable forthwith. Heard finally by consent of the parties.

2. It is submitted that the Petitioner was appointed as Shikshan Sevak under an appointment order dated 1st December 2010 Exhibit G to the Petition. The Head Master of the Respondent no.4-School made a communication to the Education Officer, Solapur on 4th February 2011 seeking approval to the appointment of the Petitioner. A further communication was made on 26th November 2012 Exhibit I. By a communication dated 19th October 2013 the Education Officer, Zilla Parishad granted approval to the appointment of the Petitioner with effect from 1st December 2010. By a communication dated 7th August 2014 the

Education Officer (Secondary) Mr.L.S.Pole informed the Headmaster of the School that for want of backlog in the subject school, approval granted to the Petitioner stood withdrawn due to existing backlog prevailing in the Respondent-School. This communication is the subject matter of challenge in this Writ Petition.

3. Learned counsel appearing for the Petitioner submits that in an identical situation, this Court had passed order in **Writ Petition No.8330 of 2014** by an order dated 15th September 2015 (Hon'ble Shri Justice Anoop V.Mohta and A.A.Sayed,JJ).

4. It should have been appropriate for the Education Officer to have dealt with the issue of grant of approval expeditiously no sooner the proposal was forwarded by the Respondent-Management to the Education Officer in the year 2011. There has been an abnormal delay in taking a decision by the Education Officer. The Education Officer decided to cancel the approval granted in favour of the Petitioner on account of existing backlog after 2 to 3 years of appointment. No show cause notice was issued by the Education Officer to the Petitioner before taking the

impugned decision. Learned counsel for the Petitioner has placed reliance on a Government Resolution dated 6th February 2012. It is submitted that the Education Officer has violated the directions issued by this Court based on which Government Resolution dated 6th February 2012 was issued.

5. We have heard Mr.Reddy learned counsel for the Petitioner, Mr.Mali learned Assistant Government Pleader appearing for Respondent nos.1 and 2 and Mr,.Tajne learned counsel for Respondent nos. 3 and 4.

6. In the facts and circumstances of the matter, we find that the decision of the Administrative Officer has affected the Petitioner-Teacher adversely. In our view, the school management and the Petitioner both ought to have been heard before taking a final decision by the Education Officer.

ORDER

(i) The Petition is allowed. The impugned order dated 7th August 2014 passed by the Education Officer (Secondary) Zilla Parishad,Solapur is set aside and the matter is remanded back to the Education Officer with a direction to issue a show cause notice to the Respondent-Management and the Petitioner-Teacher. After hearing

the parties and perusing the entire record, the Education Officer shall pass a reasoned order within a period of three months from today and in case the Petitioner was discharging his duties during this period, we direct the Respondent-State and the Education Officer, Zilla Parishad Solapur to release his salary. The salary so released shall be deposited in the bank account of the Petitioner-Teacher.

(ii) It is further clarified that this Court has not expressed any opinion on the merits of the claim of the Petitioner-Teacher and that of the Management.

Rule is made absolute accordingly with no order as to costs.

G.S.KULKARNI, J

NARESH H.PATIL, J

