

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION**

WRIT PETITION NO.10833 of 2013

Smt. Solanke Deepak Shahajirao .. 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.Vijay Killedar for Respondent no.3.

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***CORAM: NARESH H.PATIL AND
G.S.KULKARNI, JJ***

DATE: 5TH FEBRUARY 2016

P.C.

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

2. The Petitioner was appointed as an Assistant Teacher under an appointment order dated 1st June 2011 Exhibit D to the Petition on an unaided post. Another appointment order came to be issued by the Respondent no.4-Management appointing the Petitioner as Assistant Teacher on an aided post with effect from 1st March 2013. The Respondent no.4-Management had submitted a proposal to the respondent no.3 namely Administrative Officer School Board, Solapur Municipal Corporation

seeking approval to the appointment of the Petitioner. By a communication dated 7th February 2013 the Administrative Officer granted approval to the appointment of the Petitioner with effect from 5th June 2011 till completion of the probation period on an unaided post. By a further communication dated 28th/30th May 2013 the Administrative Officer granted approval to the appointment of the Petitioner with effect from 1st March 2013 on an aided post.

3. By the impugned communication dated 4th/7th October 2014 Mr.V.M.Kamble the Administrative Officer of the School Board informed the Headmaster of the School that for want of absorption of two teachers on Vth and VIIth standard classes, approval granted to the Petitioner by an order dated 31st May 2013 on an aided post is cancelled. This communication is the subject matter of challenge in this petition.

4. On behalf of the petitioner it is submitted that no show cause notice was issued by the Administrative Officer School Board to the petitioner or the management 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 appearing for the Petitioner, Mr.Mali learned Assistant Government Pleader for Respondent nos.1 and 2 and Mr.Killedar learned counsel for respondent no. 3.

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 ought to have been heard before taking the impugned decision to cancel the approval granted to the Petitioner. Hence, the following order :

ORDER

(i) The Petition is allowed. The impugned order dated 4th/7th October 2013 passed by Respondent no.3-Administrative Officer,School Board,Solapur Municipal Corporation is set aside and the matter is remanded back to the Respondent no.3 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 her 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

