

Sequeira

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

WRIT PETITION NO. 5797 of 2014

Solapur University, Solapur

.. Petitioner / ori. Resp.
No.1.

Vs

Shri Mahesh Digambar Pawar & ors.

.. Respondents

Mr.P.N.Joshi a/w Mr.I.M.Khairdi, for the Petitioner.

Mr.V.S.Talkute, for the Respondent No.1.

Ms.M.S.Bane 'B' Panel - Assistant Government Pleader, for
Respondent No.2.

Mr.N.V.Bandiwadkar i/b Mr.Sagar Mane, for Respondent No.3.

Mr.Raje Pandhare Sachin Kumar, for Respondent No.4.

***CORAM: N.M. JAMDAR, J.
Friday, 29 January 2016***

Oral Order :

Rule. Rule made returnable forthwith. Respondents waive service. Taken up for disposal by consent.

2. The Petitioner challenges the order passed by the Bombay University and College Tribunal (Holding Additional Charge) dated 6 February 2014 setting aside the order of termination of Respondent No.1 dated 25 April 2013.

3. The Respondent No.1 filed an Appeal seeking reinstatement with continuity of service with the Petitioner University on the post of driver. It was his case that he was appointed in a clear vacancy following due procedure upon an advertisement. The appointment letter given to him stated that his appointment was subject to decision in a Letters Patent Appeal pending in this Court. The Petitioner University terminated services of the Respondent No.1 after the disposal of the Letters Patent Appeal. This order was challenged before the Tribunal, which has been set aside by the impugned order.

4. I have heard the learned counsel for the parties. Learned counsel for the parties have advanced various submissions on merits but perusal of the impugned order shows that none of these arguments have been considered by the learned Presiding officer. In paragraph 1 to 6, the Presiding officer has narrated facts and submissions and has drawn a direct conclusion that, in his opinion the Respondent No.1 has made out a case for reinstatement. The order of the Tribunal is bereft of any discussion whatsoever, and it is not possible to sustain the same. It is not possible to hear the entire appeal in this Court for the first time, as sought to be contended by the Respondent No.1. The original decision will have to be taken by the Tribunal. In the circumstances, there is no option but to set aside the impugned order dated 6 February 2014 and restore the appeal filed by Respondent No.1 to the file of the Tribunal.

5. Accordingly, **Rule** is made absolute in terms of prayer clause (a). The Appeal No.7 of 2013 filed by Respondent No.1 stands restored to file. The Tribunal will consider giving priority to the disposal of the appeal. Tribunal is requested to dispose of the same within period of six months from the date of the writ of this Court reaching the Tribunal. Registry to communicate the order forthwith. All contentions of the parties on merits are kept open. The parties will appear before the Tribunal on 12 February 2016 and apprise the Tribunal of the order passed. All parties to act on authenticated copy of this order.

(N.M.Jamdar, J.)