

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11686 OF 2012

Mr.Hanmant R. Raut ...Petitioner
v/s.
State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO.10363 OF 2015

Shri Laxmi Krida va Shikshan
Prasarak Mandal ...Petitioner
v/s.
Mr.Hanmant R. Raut & ors. ...Respondents

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Mr.I.M.Khairdi for the Petitioner in Writ Petition No.11686 of 2012
Mr.D.W.Bhosale for the Petitioners in Writ Petition No.10363.
Mr.PP.Kakade, AGP for State.

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**CORAM : NARESH H. PATIL &
A.A.SAYED, JJ.**

DATED : 1 MARCH 2016

PC.:

Writ Petition No.10363 of 2015 is filed by the Management challenging the order passed by the Divisional Welfare Officer, Class-I, Pune Division, Pune. Writ Petition No.11686 of 2012 is filed by Shri Hanmant Raut, who was appointed by the Management as a teacher in the year 2007 for one year and thereafter for two years during the period between 2008 to 2010. By an order dated 29-12-2011, the District Social Welfare Officer, Solapur approved the appointments of four Asst.teachers as described in the said order for a period mentioned in the 'Remark' column. The

appointment of the Petitioner-Hanmant Raut was approved for a period from 16-6-2008 to 30-4-2010 with a further condition that no sooner the surplus teacher is made available the services of the Petitioner-Hanmant would stand terminated automatically and it was obligatory on the part of the Petitioner-Hanmant to execute such a Bond.

2. The contention of the Petitioner-Hanmant Raut is that to accommodate daughter of the President of the Institution, Ms.Yojana P. Babar was appointed on 18-6-2010 and approval was accorded by the District Social Welfare Officer, Solapur from 15-6-2011 onwards.

3. It is contended that as the Management refused the Petitioner-Hanmant Raut to join the services or sign the muster-roll, he preferred an Appeal before the Divisional Social Welfare Officer, Pune. The Management in spite of service of notice remained absent. The Appeal was decided by an order dated 25-6-2012 directing the Management to allow the Petitioner to sign the muster-roll as he was said to be in service.

4. Learned Counsel appearing for the Management submits that the Petitioner-Hanmant was irregular in attending the school during the period of his appointment and even thereafter. Before the Divisional Social Welfare Officer, Pune, the learned Counsel for the Management asked for adjournment of the hearing, but it was denied and the matter proceeded exparte. Against which the present Writ Petition No.10362 of 2015 was filed.

5. We have perused the record. Nothing is placed on record to show that the subject post was filled in by following appropriate mandatory procedure. The District Social Welfare Officer had remarked that the approval was for a prescribed period. This itself shows that the appointment order issued in favour of Hanmant Raut or Yojana Babar was temporary in nature. It could not be termed as appointment made by following prescribed procedure. The fact remains that since the year 2011 the Petitioner-Hanmant Raut is not discharging his duties as a teacher for whatever reasons. The question now is whether the view adopted by the Appellate Authority is reasonable and proper.

6. We have perused the order passed by the Appellate Authority. We find that the Appellate Authority has not discussed the issue whether the post was regular and vacant? Whether the mandatory procedure was followed in recruiting the employee? Whether the Petitioner-Hanmant Raut was regularly attending the school during the appointed period and thereafter? Whether the name of the surplus teacher was recommended by the District Social Welfare Officer to the Management or not? In absence of all these discussion, we find that the Appellate Authority's order is required to be interfered with.

ORDER

(i) The impugned order of the Appellate Authority is set aside.

(ii) We direct the District Social Welfare Officer, Solapur to call for entire record of the Management and issue suitable instructions for filling up the post on which the Petitioner-

Hanmant was appointed and later on Yojana Babar was allowed to serve. The District Social Welfare Officer may take guidance from the State Authorities.

(ii) In case the Management fails to co-operate with the District Social Welfare Officer, appropriate recommendations be made for stopping the grant.

(iii) The concerned Authorities shall verify the entire record of the Management as regards the appointment orders, backlogs, appointment of surplus teacher and accordingly set right the record of the Management.

7. Both the Petitions are disposed of in the above terms.
8. List the Petitions for 'Direction' on 29 March 2016.

(A.A. SAYED, J.)

(NARESH H. PATIL J.)