

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1161/2016

(SHEIKH SAMAR ANJUM MOHD. HANIF **VERSUS** STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.J. Mirza, counsel for the petitioner.
Shri I.J. Damle, A.G.P. for the R-1, 2 & 4.
Shri P.B. Patil, counsel for the R-3.
Shri R.J. Kankale, counsel for the R-5.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : NOVEMBER 30, 2016.

By this writ petition, the petitioner challenges the appointment of the respondent no.3 as a Shikshan Sevak in the respondent no.5-School on 05.04.2011.

The respondent no.3 was appointed as a Shikshan Sevak on 05.04.2011 and the petitioner approached the grievance committee challenging her appointment. According to the petitioner, the respondent no.3 was not eligible for appointment to the post of Shikshan Sevak. In view of the decision of the Hon'ble Supreme Court that the grievance committee would not have jurisdiction to decide the question in regard to the correctness or otherwise of the appointment of the Shikshan Sevaks, the grievance committee stopped functioning in the year 2013. According to the petitioner, the petitioner became aware of this fact in July-2014 but, could not file the writ petition till 11.02.2016 due to his poor financial condition. The petitioner has, therefore, approached this Court by filing the writ petition on 11.02.2016, challenging the appointment of the respondent no.3, dated 05.04.2011.

We uphold the preliminary objection raised on behalf of the respondents that the petition suffers from laches. The appointment of the respondent no.3 on the post of Shikshan Sevak was made on 05.04.2011. Though the grievance committee ceased to function since the year 2013. The petitioner has filed this writ petition on 11.02.2016. The claim of the petitioner that the petitioner could not file the writ petition for a couple of years due to his poor financial condition, cannot be accepted. A right is accrued in favour of the respondent no.3 due to the long delay in filing the writ petition. More than five years have lapsed from the date of appointment of the respondent no.3 on the post of Shikshan Sevak and the respondent no.3 is absorbed as Assistant Teacher. Moreover, the respondent no.3 is transferred to another municipal council. In the circumstances of the case, it would not be proper to interfere in the matter of appointment of the respondent no.3 in exercise of the writ jurisdiction after more than five years from the appointment.

Hence, we dismiss the writ petition with no order as to costs.

JUDGE

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