

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2678 OF 2015

(Swapnil s/o Kirankumar Walali and another vs. Education Officer (Secondary) and others)

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

Shri R.D. Karode, Advocate for petitioners.

Shri A.V. Palshikar, Assistant Government Pleader for
respondent nos.1 and 2.

Shri F. Mirza, Advocate for respondent no.5.

CORAM : SMT. VASANTI A NAIK AND
KUM. INDIRA JAIN, JJ.

DATED : AUGUST 24, 2016

By this writ petition, the petitioners challenge the order of the Deputy Director of Education, dated 18/3/2015 directing the Education Officer to cancel the approval to the petitioners' appointments. The petitioners have also sought a direction against the respondent Management to permit them to resume their duties as the respondent Management is not permitting them to perform their duties.

On hearing the learned Counsel for the parties, we find that the services of the petitioners stand "otherwise terminated" in view of the refusal on the part of the respondent Management to permit them to perform their duties. Even before the filing of this writ petition, the respondent Management was not permitting the petitioners to do the work on the posts of Junior Clerk and Laboratory Attendant. An appeal under

Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 could be filed in a case of “otherwise termination”. Though the Deputy Director of Education has directed the Education Officer to cancel the approval to the appointments of the petitioners, approval is not cancelled till date. Hence, the mere communication of the Deputy Director of Education cannot be challenged unless the same is acted upon by the Education Officer. Even otherwise, this aspect can also be looked into by the School Tribunal while deciding the appeal in the case of termination of the petitioners.

In view of the aforesaid, we dispose of the writ petition with no order as to costs. The petitioners are free to file an appeal before the School Tribunal, if so desired. The points raised in the petition are kept open.

Order accordingly.

JUDGE

JUDGE

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CERTIFICATE

I certify that this order uploaded is a true
and correct copy of original signed order.

Uploaded by :

Kamal H. Jeswani
Private Secretary

Uploaded on :

25/08/2016