

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

WRIT PETITION NO.3475 OF 2015

[Shri Basantlal Bhaulal Lilhare .vs. Shivshakti Shikshan Sanstha Deori and others]

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

Court's or Judge's orders

Shri P.P. Thakare, Advocate for the petitioner,
 Shri N.R. Saboo, Advocate for the respondent nos.1 and 2,
 Shri Nikhil Joshi, A.G.P. for the respondent nos.3 and 4.

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CORAM : SMT. VASANTI A. NAIK AND
A.S. CHANDURKAR, JJ.

DATED : MARCH 02, 2016.

Heard.

The challenge in this writ petition is to an oral order of termination dated 26.9.1996 said to have been issued by the respondent nos.1 and 2 thereby terminating the services of the petitioner from the post of Assistant Teacher.

It is the case of the petitioner that he had initially filed an appeal before the School Tribunal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 challenging the order of oral termination dated 26.9.1996. The appeal was partly allowed by judgment dated 14.1.2000 and the order of termination was set aside. As the same was not complied with, the petitioner initiated proceedings for its implementation. However, in a review application filed by the respondent nos.1 and 2, the order dated 14.1.2000 was reviewed and recalled. The petitioner, thereafter, approached the Additional Commissioner, under the Special Code, by filing an appeal. On 26.5.2014, the Additional Commissioner allowed the said appeal holding the oral termination to be illegal. This order passed by the Additional

Commissioner was challenged by the Management in this Court and by judgment dated 27.3.2015 in Writ Petition No.3668/2014, the said order was set aside on the ground that the Additional Commissioner had no jurisdiction to decide the proceedings. After the decision of said writ petition, the petitioner has now challenged the order of termination dated 26.9.1996 in this writ petition.

Though Shri P.P. Thakare, the learned counsel for the petitioner tried to urge that the order of termination was *per se* illegal and bad in law, it is to be noted that in the judgment dated 27.3.2015 passed in Writ Petition No.3668/2014, the petitioner had been granted an opportunity to avail appropriate remedy in accordance with law. As various disputed questions arise in the challenge to the order of oral termination, filing of writ petition would not be an appropriate remedy in the present matter.

As observed in the order dated 27.3.2015 in Writ Petition No.3668/2014, it is open for the petitioner to avail appropriate remedy in accordance with law. The points raised in the petition are kept open. The writ petition is disposed of with no order as to costs.

JUDGE

JUDGE