

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

WRIT PETITION NO. 3631 OF 2016

Shashikala Pundlik Dawde and another

-vs-

State of Maharashtra, thr. Its Secretary, Education Department and others

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

Court's or Judge's Orders.

Mr. Alok Daga, counsel for the petitioners.
Mr. N.R.Rode, AGP for the respondent No.1.
Mr. Shaikh Majid, counsel for the respondent Nos.2 and 3.

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

DATE : 27.07.2016.

By this writ petition, the petitioners challenge the order of the Education Officer (Primary), Zilla Parishad, Nagpur, dated 17/05/2016 cancelling the approval to the appointment of the petitioner on the post of Headmistress.

Inter alia, it is submitted on behalf of the petitioner that the impugned order is passed without granting an opportunity of hearing to the petitioner and hence, it is liable to be set aside. It is stated that before passing the order of cancellation of approval, the petitioner was not heard.

Shri Shaikh Majid, the learned counsel for the respondent-Zilla Parishad, states that some of the teachers that were terminated by the Management of the school had approached the School Tribunal and though the School Tribunal had granted stay to the order of their termination, the petitioner-Headmistress did not permit the teachers to join the duties. It is stated that the teachers made complaints to the Education Officer (Primary) in regard to the illegal action on the part of the petitioner-Headmistress and in pursuance of the said complaints, the approval to the promotion of the petitioner as a Headmistress was cancelled. It is, however, fairly stated that an opportunity of personal hearing was not granted to the petitioners before the approval was cancelled.

Since admittedly, the petitioners were not granted an opportunity of hearing before the impugned order was passed, the impugned order cannot be sustained. It was necessary for the Education Officer (Primary), to have heard the petitioner before cancelling the approval to the promotion of the petitioner No.1 on the post of Headmistress. Since it is well settled that the approval to an appointment cannot be cancelled, without granting an opportunity of hearing, the impugned order is liable to be set aside.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The impugned order is quashed and set aside. The respondent-Education Officer (Primary) is free to take appropriate steps in the matter of cancellation of approval of the petitioner No.1 after hearing the petitioners. Since the Education Officer (Primary) is ready to hear the petitioners, the petitioners undertake to appear before the Education Officer (Primary) on 04/08/2016. It is needless to mention that the petitioners would be entitled to tender the documents and file the submissions before the Education Officer (Primary) on 04/08/2016. Order accordingly. No costs.

JUDGE

JUDGE

C E R T I F I C A T E

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

Uploaded by : G.S.Khunte,
P.A.to Hon'ble Judge

Uploaded on : 30/07/2016