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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.3633 OF 2006

Bhausahab s/o Pandharinath Dongare
Age 31 years, Occ. Service,
R/o at present Eknathwadi
Tq. Pathardi, Dist. Ahmednagar ... PETITIONER

VERSUS

1. The State of Maharashtra
through Government Pleader,
High Court, Bench at Aurangabad
through its Secretary,
Education Department,
Mantralaya, Mumbai
 2. The Director,
Social Welfare, Pune - 1
 3. The Divisional Social Welfare Officer,
Aurangabad
 4. The Social Welfare Officer,
Nanded, District Nanded
 5. The Secretary,
Swargiya Rajiv Gandhi Niwasi
Apang Vidyalaya, Gokunda,
Tq. Kinwat, District Nanded
 6. The Head Master,
Swargiya Rajiv Gandhi Niwasi
Apang Vidyalaya, Gokunda,
Tq. Kinwat, District Nanded
- ... RESPONDENTS

.....
Shri D.R. Jaybhar, Advocate for petitioner
Shri B.A. Shinde, A.G.P. for State
Mrs. Y.M. Kshirsagar, Advocate for respondent No.4
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CORAM: RAVINDRA .V. GHUGE AND
 SUNIL K. KOTWAL, JJ.

DATED : 23rd NOVEMBER, 2017.

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J.):

1. The petitioner is aggrieved by the show-cause-notice dated 21.12.2005, vide which, the Divisional Social Welfare Officer, has raised certain objections, pertaining to the proposal of the petitioner for undertaking the postal D.Ed. course. The petitioner has approached this Court on 21.2.2006 for challenging the said notice.

2. Learned counsel for the petitioner, who had sought an adjournment on 10.11.2017, for collecting instructions, submits, on the basis of the information supplied to him by the petitioner, that the concerned Swargawasi Rajiv Gandhi Niwasi Apang Vidyalaya, Gokunda, lost its its permission to operate the said school in 2005. The entire staff was discharged. In 2009, the school was again granted permission. The petitioner has completed the course of a Craft Teacher, and claims to have been appointed as a Craft Teacher on 12.3.1996. Due to the closure of the school, he was disengaged on 21.12.2005. The petitioner, therefore, could not complete his postal D.Ed. till date, and is out of employment ever since he has been removed.

3. Since this petition has been admitted by order dated

12.1.2007, by which the respondent No.4 Department was restrained from causing recovery against the petitioner, we have solicited information from the litigating sides with regard to the services of the petitioner. Since the petitioner has not completed his postal D.Ed., as he is out of employment from December 2005, we find that, these disputed issues cannot be gone into by this Court in the absence of the petitioner having acquired the qualification of D.Ed.

4. The impugned notice dated 21.12.2005, in fact, calls upon the petitioner to explain as to why his admission to the postal D.Ed. course should not be cancelled considering the objections. It is recorded in our order dated 12.1.2007 that, the Jagtap Committee was formed, so as to investigate the alleged irregularities and the complaints with regard to the admission of candidates to the postal D.Ed. course.

5. As such, we find it appropriate to permit the petitioner to submit his detailed explanation to the impugned notice and submit necessary documents in order to convince respondent No.3 that his admission to the postal D.Ed. course was pursuant to following the due procedure.

6. Since we find that, even if, for the sake of assumption, the petitioner is held by respondent No.3 to be eligible for getting admission to the postal D.Ed. course, the

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hurdle in the petitioner's path would be that he is removed from service on 21.12.2005, thereby disentitling him to seek admission to the postal D.Ed. course.

7. Nevertheless, we, therefore, find it appropriate to leave this issue open to be considered by the appropriate authorities as per the prevailing policies. In the event the petitioner desires to challenge his illegal termination, the doors of the Court cannot be closed for him and hence, the time spent by the petitioner in this Court from 21.2.2006 till the passing of this order, shall be a good ground for seeking condonation of delay, in the event he challenges his termination.

8. With the above observations, this petition is disposed of.

9. Rule is discharged.

(SUNIL K. KOTWAL)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

fmp/