

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

WRIT PETITION NO. 3674 OF 2016

Suryakant Daulatrao Patil .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Pradeep Deshmukh, Advocate h/f Shri Y. P. Deshmukh,
Advocate for the Petitioner.

Shri S. W. Mundhe, A.G.P. for Respondent Nos. 1 and 2.

Shri S. V. Warad, Advocate for the Respondent No. 3.

Shri R. K. Ashtekar, Advocate for the Respondent No. 4.

Shri R. J. Godbole, Advocate with Shri P. M. Nagargoje, Advocate
for the Respondent No. 5.

**WITH
WRIT PETITION NO. 3654 OF 2016**

Head Master Shri Raghuvir Secondary
and Higher Secondary Vidyalaya
Chamarga through D. T. Mule .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Vivek Dhage, Advocate for the Petitioner.

Shri S. W. Mundhe, A.G.P. for Respondent Nos. 1 and 2.

Shri S. V. Warad, Advocate for the Respondent No. 3.

Shri R. K. Ashtekar, Advocate for the Respondent No. 4.

Shri R. J. Godbole, Advocate with Shri P. M. Nagargoje,
Advocates for the Respondent No. 5.

**CORAM : S. V. GANGAPURWALA AND
K. K. SONWANE, JJ.
DATE : 19TH SEPTEMBER, 2017.**

FINAL ORDER :

. In Writ Petition No. 3674 of 2016 order dated 10th March, 2016 passed by the Education Officer is assailed, wherein it is held that no proposal seeking approval to the appointment of the petitioner in Writ Petition No. 3674 of 2016 was received by his office and the salary was paid by misleading. The directions were given to recover the salary and if salary is not recovered, then the same be deducted from the salary of the Head Master.

2. According to Mr. Deshmukh, the learned counsel for the petitioner in Writ Petition No. 3674 of 2016, the petitioner is working since 1996 and subsequently in the year 2012 the post became vacant. The petitioner is appointed on the post that became vacant as junior clerk and his appointment was approved pursuant to the order of the Education Officer dated 29.05.2012.

3. Mr. Deshmukh, the learned counsel further submits that, the impugned order is passed without notice to the petitioner and without hearing him. The learned counsel further submits that, the petitioner was issued with appointment order on the basis of resolution dated 02.06.1998 sent by the then President Hanmantrao Patil.

4. Mr. Godbole and Mr. Nagargoje, the learned counsel for contesting respondent submit that, the Education Officer has passed the order impugned in the petition after hearing all the parties. Even the petitioner has signed the proceedings of hearing. In the year 1996 when the petitioner claimed to have been appointed, no post for junior clerk was vacant, as the said post was already held by a person namely Murgande since 1988. The learned counsel submit that, in the year 2012 also no advertisement was ever issued. Even no proposal was submitted by the Head Master seeking approval to the appointment of the petitioner. The Head Master in his own hand writing gave such a letter. Now the Head Master is taking a somersault. No procedure at any point of time was followed.

5. Mr. Ashtekar, the learned counsel appears for the Head Master and supports the arguments of Mr. Deshmukh, the learned counsel for the petitioner.

6. The parties are debating about the status of the President and Secretary, so also raising rival contentions. The record will have to be perused and then the decision is required to be taken.

7. It appears that, the Education Officer had conducted the hearing and in the proceedings dated 11.01.2016 the signature of the petitioner in Writ Petition No. 3674 of 2016 appears.

8. To test the genuineness of the submissions made, the record will have to be gone into. The said exercise would not be possible under the writ jurisdiction of this Court.

9. Considering the above, we direct the Deputy Director of Education, Latur Division, Latur to consider the record that would be placed before it by the respective parties and consider the genuineness of the approval so granted in favour of the petitioner on 29.05.2012, the appointment orders as claimed by the petitioners, the adherence to the procedure and all the relevant aspects and take decision afresh with regard to the status of the petitioner in Writ Petition No. 3674 of 2016.

10. The parties may appear before the Deputy Director of Education Latur on 03rd October, 2017. The Deputy Director of Education shall decide the same within a period of two (02) months from the date of appearance.

11. Till the same is decided by the Deputy Director of Education, recovery may not be claimed as directed in the impugned order. The writ petitions are disposed of. No costs.

[K. K. SONWANE, J.]

[S. V. GANGAPURWALA, J.]