

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 5480 OF 2003

Bankatswami Shikshan Sanstha
Khadkighat Tq. & Dist. Beed
(Through its President :
Dr. Laxmanrao Kondibarao Bhosale,
Aged 62 years, Occu. Medical Profession,
R/o. Paithan, Dist. Aurangabad
(Khadkighat Tq. & Dist. Beed)

....Petitioner.

Versus

1. Shri. Gopalrao Baburao Sondge,
Aged 51 years, Occu. NIL,
R/o. "Laxmikunj" Bindusara Colony,
Beed.
2. Dr. Babasaheb Ambedkar
Marathwada University,
Aurangabad.
(Through Its Registrar)
3. The State of Maharashtra
(Through Its Joint Director,
Higher Education, Aurangabad).
4. Shivaji s/o. Baburao Shinde,
Age 60 years, Occu. Advocate,
R/o. Sarkarwada, Cidco N-4,
Aurangabad.
5. Bhimrao s/o. Kondiba Bhosale,
Age 86 years, Occu. Agriculture,
R/o. 11, Phule Colony in front of
Shivaji High School, Khokadpura,
Aurangabad.
6. Sow Saroj Gopalrao Sondge,
Age 58 years, Occu. Retired,

R/o. Bindusara Colony (West),
Near Water Tank, Nagar Road,
Beed, Tq. & Dist. Beed.

....Respondents.

Mr. S.B. Talekar, Advocate for petitioner.

Mr. Pradeep Deshmukh, Advocate for respondent No. 1.

Mr. R.V. Dasalkar, AGP for respondent No. 3/State.

Mr. N.L. Jadhav, Advocate for respondent Nos. 4 to 6.

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**

DATED : July 13, 2017.

JUDGMENT :

. The petition is filed for relief of declaration that on 8.7.2003 and 1.9.2003 orders were obtained from this Court in Writ Petition No. 751/2003 by playing fraud upon the Court and further, relief is claimed to recall the orders and to restore the Writ Petition No. 751/2003. Both the sides are heard.

2. Writ Petition No. 751/2003 was filed by respondent No. 1 to challenge the suspension order issued against him by the management, present petitioner. On 8.7.2003 submission was made in the petition before this Court that respondent No. 1 had tendered the resignation and it was accepted by the management and there was the grievance only in respect of payment of salary. In view of this submission, notice was issued

to management for making further orders. In response to the order of notice, the counsel for the management appeared and he on written instruction submitted that the management had withdrawn the chargesheet which was issued against respondent No. 1 and the management had also accepted the resignation by passing necessary resolution and there was no order of suspension against respondent No. 1. In view of these statements by both the sides, this Court disposed of the matter in following terms :-

"In view of the said order, nothing farther survives in the petition except the legal dues of the petitioner for the same for services he rendered with the respondent No. 1. We direct that the legal dues of the petitioner be settled as expeditiously as possible within a period of two months from today."

3. It is the case of petitioner that the Chairman was not aware of the aforesaid circumstances and behind his back, some record was created falsely probably by the Secretary and Vice Chairman and so, the fraud was played upon the Court. This Court has gone through the record produced which include the resignation addressed to the Chairman himself. It appears that there is some dispute amongst the persons of management and

there are two groups. In any case, the management was represented by counsel in this Court and on the basis of the statement made by the counsel, the aforesaid order was made by this Court. It appears that the petitioner is now agitating the matter again as respondent No. 1 is claiming the salary amount in respect of the suspension period. That point cannot be considered and could not have been considered in view of the aforesaid submissions made before this Court in the said proceeding. That point needs to be dealt with separately. In view of the circumstances that the counsel appointed by the management had made the statement and no blame is put on the counsel by the petitioner, it is not possible to hold that fraud was played upon the Court by producing the record of aforesaid nature. Further, the petitioner has not produced the proceeding book showing that on 20.5.2003 no such resolution was passed by the management. This Court holds that it is not possible to reopen the matter again. In the result, the petition stands dismissed. Rule stands discharged.

[SUNIL K. KOTWAL, J.]

[T.V. NALAWADE, J.]

ssc/