

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

WRIT PETITION NO. 5154 OF 2016

Jai Parvatimata Educational Samajik and
Sanskrutik Mandal
Through its Secretary and Another

..PETITIONERS

VERSUS

State of Maharashtra and Others

..RESPONDENTS

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Mr. Kishor Gadhave Patil, Advocate h/f Mr. D.R. Adhav, Advocate for petitioners.

Mr. A.R. Borulkar, A.G.P. for Respondent Nos. 1 to 3.

Mr. D.S. Bagul, Advocate h/f Mr. V.B. Madan Patil, Advocate for Respondent Nos. 4 to 13.

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**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

DATED : 17th FEBRUARY, 2017

ORDER :

1. The petition is filed to challenge the order made by the Deputy Director of Education, Pune Division, Pune on 30th November, 2015 by which the so called oral termination of Respondent Nos. 4 to 13 is set aside. Both sides are heard.

2. It appears that by publishing advertisement, the petitioner – institution which is not receiving any government grant and which is

running the junior college invited the application for filling some posts of teaching and non-teaching staff. In the advertisement, it was published that the posts are for the year 2014-15. It can be said from the said advertisement that the posts were available as per norms on the establishment of petitioner – institution. The aforesaid respondents came to be selected for those posts. It appears that after completion of period given in the advertisement, the petitioner orally terminated the services of the respondents. The respondents through union approached to the Deputy Director for Education, Pune Division. The Deputy Director issued notice to the petitioner - institution. The institution appeared before the Deputy Director through advocate and even the Secretary of the institution appeared before the Deputy Director. Opportunity of having say was given by the Deputy Director but after filing of the appearance, they did not turn up. So, ultimately the order was made by Deputy Director.

3. The learned Counsel for petitioner drew the attention of this Court to the provisions of Section 9 of the The Maharashtra Employees of Private School Act, 1971 and submitted that there is no such jurisdiction or power to the Deputy Director and the respondents ought to have approach the appropriate forum i.e. School Tribunal. Though there is force in this submission, the fact remains that there were posts on the establishment of

the petitioner – institution as mentioned above and when posts were to be filled, the institution is not expected to appoint the employees on the yearly basis like daily wagers. The institution is not ready to abide by the rules and regulations which are made for running such institutions. In view of these circumstances, this Court is not expected to interfere in the order.

4. Learned Counsel for petitioner placed reliance on some observations made by this Court in the case reported as **1984 Mh.L.J. 31 (Shriram Swami Shikshan Sanstha Vs. Education Officer, Zilla Parishad, Nagpur and Another)**. The observations made in that case are on the different context. This Court hold that in the present case the termination of employees made by the the petitioner – institution is for no reason.

5. If the institution is not allowing the respondents to resume their duties as there is such responsibility of the institution, the government will have to take action against the institution to see that such institutions are not allowed to run. With these observations, the petition is dismissed. Learned Counsel for petitioner requested for continuation of interim relief, same is refused. Interim relief is vacated.

(SANGITRAO S. PATIL, J.) (T.V. NALAWADE, J.)

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