

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

WRIT PETITION NO.6730 OF 2016

1. Shubh Sandesh Shikshan Prasarak
Mandal, Degloor, Tq. Degloor,
Dist. Nanded
Through Secretary,
Nagorao s/o. Lalba Bhalke,
Age : 59 years, Occ. Secretary,
r/o. Datta Nagar, Nanded,
Tq. and Dist. Nanded
 2. The Head Master,
Anudanit Adivasi Ashram School,
Mulzara, Tq, Kinwat,
Dist. Nanded
- ..Petitioners

Vs.

1. The State of Maharashtra,
Tribal Development Department,
Commissioner Officer,
Maharashtra State,
Nashik
 2. The Additional Commissioner,
Tribal Development Department,
Amrawati Division, Amrawati
 3. The Project Officer,
Tribal Development, Integrity
Development Department,
Project Officer, Kinwat,
District Nanded
 4. Madhav s/o. Dattatraya
Dahikalambekar, Age : 33 years,
Occ. Service,
r/o. At Post, Ambulga,
Tq. Kandhar, Dist. Nanded
- ..Respondents

Mr.S.R.Chowkidar, Advocate i/b. Mr. V.S.Panpatte,
Advocate for petitioners

Mr.A.R.Borulkar, AGP for respondent nos.1 to 3

Mr.G.J.Karne, Advocate for respondent no.4

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

DATE : FEBRUARY 28, 2017

ORDER :

This petition is filed for challenging the order dated 30.01.2015 made by respondent no.1 - Commissioner, Tribal Development, Maharashtra State, Nashik.

2. Heard both sides.

3. By the afore-said order, the authority has held that the termination of present respondent no.4 - Madhav s/o. Dattatraya Dahikalambekar, who was working in the Ashram School run by the petitioners and which was receiving grant-in-aid from the Government is illegal. By the impugned order, direction was given to see that the respondent no.4 is allowed to resume the duties.

4. The learned Counsel for the petitioners - Institution submits that the afore-said order passed by the authority is due to some misconception. In the order, the authority has observed that respondent no.4 was probably terminated due to the conviction and sentence of life imprisonment awarded against him, but there was no such order of conviction and sentence against him. The learned Counsel for the petitioners submits that this was not the ground for termination of respondent no.4 from the service and therefore, the impugned order made by respondent no.1 needs to be set aside.

5. During arguments, the learned Counsel for the petitioners took us through the resolution of termination passed by the petitioners - Institutions. The resolution shows that the petitioners considered the circumstance that respondent no.4 was absent on the duty without

prior sanction of leave since 24.11.2004. Only on this ground, the services of respondent no.4 came to be terminated by resolution dated 05.04.2005. The period of absence from service was hardly of five months. The resolution itself and the submissions would show that no other reason was given for termination of respondent no.4.

6. The learned Counsel for the petitioners submits that the resolution shows that show cause notice was issued to respondent no.4, he was contacted on telephone and also a written letter was sent to him. Such record is not there, but in any case, no employee can be terminated by passing resolution on the ground that he did not resume the duties for five months. The submissions would show that since the year 2000, respondent no.4 was working with the petitioner – Institution.

7. The learned Counsel for the petitioners took this Court through some observations made by

this Court in order dated 09.07.2007 in Writ Petition No.6300 of 2005, and this petition was filed by present respondent no.4. It appears that this Court had refused to grant interim relief to the petitioner therein (present respondent no.4). The fact remains that on the day of filing the said petition, the services of respondent no.4 were terminated. In any case, those were the observations for interim relief, which cannot be used in the present petition in view of the afore-said peculiar circumstances.

8. The learned Counsel for the petitioners also tried to show that the appointment of respondent no.4 was on ad-hoc basis and he was not a trained teacher.

9. This aspect of the matter cannot be considered in the present petition in view of the nature of resolution passed by the petitioners - Institution, which is quoted above. It is clear

that the resolution passed by the petitioners – Institution is apparently illegal and therefore, respondent no.4 was required to approach the authority and he ran pillar-to-post. He had also filed Writ Petition in this Court in the year 2005.

10. In view of these circumstances, this Court holds that no relief can be granted in favour of the petitioners. This Court sees no reason to interfere in the impugned order passed by respondent no.1.

11. The Writ Petition stands dismissed.

[SANGITRAO S. PATIL, J.]

[T.V. NALAWADE, J.]