

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5768 OF 2016

Khandu Nagnath Deokate ... Petitioner
Vs.
The Principal,
Sambhajirao Shinde Prashala Handicap
Unit (Secondary) & Ors. ... Respondents

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Mr. I.M. Khairdi for the Petitioner.
Mr. B. V. Samant, AGP for Respondent-State.
Mrs. Shehnaz V. Bharucha a/w Mr. M.S. Bharadwaj i/b. Mr. A. A.
Ansari for Respondent No.6.
Mr. S. D. Sonwane, Education Officer (Secondary), Solapur,
present.

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**CORAM : S. C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

DATE : DECEMBER 05, 2017.

P.C. :

1. The petitioner before us has stated that he was appointed in a school meant for handicapped, namely, the 1st respondent to this Petition as Attendant/Parichar on 28th July, 2009. The 4th respondent approved this appointment and the petitioner was working as a permanent employee.

2. The 3rd respondent, without any opportunity of hearing being afforded either to the 1st respondent or the petitioner, passed an order on 14th January, 2016, cancelling the recognition

of the Handicap Unit of the 1st respondent. In view thereof, the petitioner is rendered jobless.

3. The petitioner has outlined the Government of India scheme and how the aid in the form of finances is extended so that the schools are set up especially for the handicapped and the handicapped are not deprived of their opportunity to get basic education. If they have to be granted this opportunity, it must be meaningful. That opportunity to be made meaningful means such disabled persons require assistance. They are to be rendered such assistance by appointment of an Attendant. Sometimes, these handicapped students or employees have to be carried physically to the school premises and in order to complete their education. We are surprised that such posts are being made redundant by cancelling the recognition of either the Handicap Units or schools or putting an end to the employment of parties like the petitioner.

4. On the earlier occasion, Mr. Khairdi appearing for the petitioner placed heavy reliance on a Division Bench judgment of this Court which has been rendered at its Bench at Aurangabad. Pursuant to that Division Bench judgment, the Government of Maharashtra, through the Directorate of Primary Education, has evolved a policy. That policy says that 1185 Special Teachers and 72 Parichars/Attendants should be re-established and reinstated in the services of the nearby schools meant for handicapped by terming them as surplus employees or if such opportunities are

not available, then, to a nearby secondary or primary school, but absorb or reinstate them must be for sure.

5. On the earlier occasion, we were informed that the 6th respondent Union of India has evolved a scheme so as to finance and fund the schools for disabled and therefore, such employees rendered unemployed have to be treated as surplus and thereafter, they can be absorbed in some other school meant for handicapped alone. Else, the Union of India funds would not be made available.

6. We were disturbed at the stand of the State Government taken earlier for what we noted is that there is a Division Bench order binding the State. It cannot be circumvented or by-passed in this manner and by placing before us the reasons which are patently unsustainable.

7. We had, therefore, on the earlier occasion, impressed upon the State to take a reasonable stand so that the order of the Bench at Aurangabad is not defeated and frustrated.

8. On taking instructions from the official of the concerned Department, who is present in Court, Mr. Samant, learned AGP makes a statement that the petitioner Khandu Nagnath Deokate would be absorbed in a school meant for handicapped and functional at Solapur itself. That school would be directed to

absorb the petitioner in its services with effect from 1st January, 2018. The appointment order to that effect would be issued and duly served on the petitioner on or before 28th December, 2017.

9. We accept both these statements made on instructions as undertakings to this Court. The name of the institution/school, where the petitioner would be absorbed, reads as under:

"Chandrabhagabai Yelgulwar Prashala, Solapur."

10. We dispose of the Petition in terms of these directions.

11. Needless to clarify that if the petitioner has served the earlier institution as Parichar and before its abrupt closure or its non-functioning, then, his arrears of salary shall also be released within a period as directed above, namely, on or before 1st January, 2018.

(SMT. BHARATI H. DANGRE, J.)

(S. C. DHARMADHIKARI, J.)