

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3832 OF 2017

Versus

Mr.N.V. Bandiwadekar i/by Mr. Mandar Bagkar for the petitioner.

Mr. V.N. Sagare, AGP for the respondent State.

**CORAM : SHANTANU KEMKAR &
B.P. COLABAWALLA, JJ.
DATED : APRIL 17, 2017.**

P.C.

Not on board. Taken on production board in view of the urgency.

2. Through this petition filed under Article 226 of the Constitution of India, petitioner has challenged the order dated 16.12.2016 Exhibit "I" whereby respondent no.3 has instructed respondent no. 5 Headmaster not to draw the salary of the petitioner as full time teacher.

3. According to the petitioner, he was extended the said benefit with effect from 15.6.2013 vide order dated 23.5.2016 Exhibit "F". However, without giving notice and opportunity of hearing, the impugned order has been passed. Learned counsel for the petitioner submits that the impugned order is violative of the principles of

natural justice and as such the same cannot be sustained.

5. On the other hand learned AGP supports the impugned order. He submits on instruction from respondent nos. 4 and 5 who are present in court, that the petitioner was not entitled to the benefits which were extended in his favour and therefore, the impugned order has been passed.

6. Having considered the submissions made by the parties, we are of the view that the impugned order is violative of the principles of natural justice as before passing the said order, neither notice has been issued to the petitioner nor opportunity of hearing has been accorded to him. In the circumstances, we set aside the impugned order, however, with liberty to the respondent nos. 1, 2 and 3 to issue notice to the petitioner and the respondent nos. 4 and 5, if they are so advised in regard to cancellation of the approval of the petitioner. Thereafter the respondent nos. 2 or 3 may pass fresh order in accordance with law after giving opportunity of hearing to the petitioner as also to the Management

7. Needless to say that as a result of setting aside of the impugned order, the consequences shall follow.

8. Petition is disposed of.

(B.P. COLABAWALLA, J.)

(SHANTANU KEMKAR, J.)