

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION(st) NO. 9181 OF 2017

WITH

CIVIL APPLICATION NO.932 OF 2017

Magdum Dagdu Pathan and Others ..Petitioners

Vs.

The Special District Social Welfare Officer

and Others ..Respondents

Mr. S. G. Kudle, for the Applicants/ Orig.Petitioners in petition

Mr. A. P. Vanarase, AGP, for Respondent Nos.1 to 4.

Mr. N. V. Bandiwadekar I/b Mr. S. A. Mane, for Respondent
Nos. 5 and 6.

CORAM :- B. R. GAVAI & B. P. COLABAWALLA, JJ.

DATE :- DECEMBER 13, 2017.

P. C.:

Rule. Rule made returnable forthwith. Heard by
consent.

2 The Petitioners impugn the order dated 16th
March, 2017 vide which the approval granted to the
appointment of the Petitioners vide order dated 2nd May, 2014
has been withdrawn.

3 The Petitioners were initially appointed as Shikshan Sevak in Respondent No.6 under the management of Respondent No.5. After completion of probation, they were granted permanent approval on 2nd May, 2014. However, it appears that as per the scheme framed by the State Government, the information with regard to all the Teachers was required to be furnished on the portfolio of Respondent No.2. It appears that though the information was supplied on the portfolio, the salary of the Petitioners was not released. The Petitioners, therefore, approached this Court by way of Writ Petition No.5881 of 2016. This Court, vide order dated 13th November, 2016 has disposed of the Petition with a direction to Respondent No.2 to decide the proposal submitted by the management for payment of the salary. In pursuance to the said order, the impugned order has been passed thereby withdrawing the approval granted earlier.

4 A perusal of the impugned order would reveal that the stand taken by Respondent No. 2 is that the approval

granted by the subordinate authority was granted without following the mandate of the Government Resolution.

5 Mr. Bandiwadekar, the learned counsel appearing on behalf of Respondent Nos.5 and 6 submits that the appointments of the Petitioners so made are legal and valid. He, however, submits that before passing the impugned order, no notice was given to the said Respondents. He submits that had the notice been given, the management would have produced the entire record before the authority which would have shown that the appointments were legal and valid. Mr. Kudle, the learned counsel for the Petitioners also reiterated that the appointments are legal and valid and made after following the due procedure.

6 However, perusal of the record would further reveal that though the Petitioners were put on notice, the Petitioners have also chosen to remain absent before Respondent No.2.

7 In that view of the matter, we find that it will be in the interest of justice if the impugned order is quashed and set aside, matter is remanded back and Respondent No.2 is directed to decide the matter afresh by giving opportunity of hearing to the Petitioners as well as Respondent Nos.5 and 6. Taking into consideration the fact that the Petitioners are without salary for years together, the same shall be done within a period of four weeks from today. The Petitioners as well as Respondent Nos.5 and 6 are directed to remain present before Respondent No.2 on 26th December, 2017 and as such the requirement of common notice shall stand waived. Needless to state that whatever material Respondent No.2 desires to use against the Petitioners and Respondent Nos.5 and 6, a copy of the same shall be supplied to the parties.

8 Rule is made absolute in the following terms.

9 The impugned order dated 16th March, 2017 is

quashed and set aside. The Writ Petition is disposed of accordingly.

10 In view of the disposal of the Writ Petition, nothing survives in the Civil Application No.932 of 2017 and the same is disposed of accordingly.

11 Further needless to state that until the decision of Respondent No.2, the Petitioners would be continued in the service of Respondent No.6.

(B. P. COLABAWALLA, J.)

(B. R. GAVAI, J.)