

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****APPELLATE SIDE CIVIL JURISDICTION**

WRIT PETITION NO. 4520 OF 2016

Muslim Education Committee Through

Shri.Mohd. Bagwan And Anr.

....Petitioners

V/S

Shri Tohid A. Hamid Shikalgar And Anr

....Respondents

...

Mr.Ashutosh M.Kulkarni for the Petitioners.

Mr. Kuldeep U. Nikam, for the Respondent No.1.

Mr.J.A.Madane, AGP for the Respondent No.2.

...

**CORAM : A.A. SAYED, J.****DATED : 10 FEBRUARY 2017****P.C.:**

By this Petition filed under Articles 226 and 227 of the Constitution, the Petitioners challenge the order dated 8 March 2016 passed by the School Tribunal, Kolhapur, whereby the Appeal filed by the Respondent No.1-Original Appellant-teacher has been allowed. The operative part of the impugned order reads as follows:

**“ORDER**

1. Appeal is hereby partly allowed.
2. The order of termination dated 30-04-2013 is hereby declared as illegal, improper and it is quashed and set aside.
3. The Respondents are directed to reinstate the Appellant to his original post as a “Peon” within 40 days from the date of this order with continuity of service.

4. The Respondent No.1-Management is directed to pay the back wages @ 50%, as compensation from the date of termination i.e. 30/04/2013, till the reinstatement.
5. The Respondent Nos.1 to 3 are directed to implement this order within 40 days from the date of this order.
6. Parties to bear their own cost.”

2. The only ground on which the Respondent No.1-teacher was terminated was that there was no approval from the Education Department to the appointment of the Respondent No.1-teacher. The School Tribunal in the impugned order has rightly observed that this issue is squarely covered by the judgment of the Full Bench of this Court in the case of **St.Ulai High School and another v/s. Devendraprasad Jagannath Singh.**, 2007(1) Mh.L.J. 597, wherein it is held in paragraph 13(iii) that neither the MEPS Act, 1977, nor the Rules framed thereunder mandate the grant of approval by the Education Officer as a condition precedent to a valid order of appointment. The Full Bench held that the requirement of approval which relates to the disbursement of grant in aid is a matter between the management and the State and want of approval will not invalidate an order of appointment.

3. In these circumstances, no fault can be found in the impugned order.

4. Learned Counsel for the Petitioner-Management has pointed out the order dated 17 November 2015 passed by the Division Bench of this Court in Writ Petition No.10376 of 2014 [Muslim Education Committee & ors. v/s. The Education Officer (Secondary), Zilla Parishad, Sangli & ors.], wherein the Respondent-Education Officer was directed to decide the proposal/representation of the Petitioner-Management pertaining to approvals, as early as possible and preferably within eight weeks, in accordance with law and without being influenced by the earlier rejection. Learned Counsel for the Petitioner-Management has pointed out that till date, even after a period of more than a year, the proposal/representation of the Petitioner-Management has not been decided by the Education Department.

5. In these circumstances, I am inclined to observe that it is expected that if the proposal/representation is not yet decided, the same shall be decided at the earliest. It will be open for the Petitioner-Management to take appropriate proceedings against the concerned Education Officer for non-compliance of the order of the Division Bench dated 17 November 2015.

6. Pursuant to the order dated 3 May 2016, the Petitioner-Management has deposited certain amount towards back wages of the Respondent No.1-teacher in this Court. The Respondent No.1-teacher is permitted to withdraw the said amount alongwith accrued interest.

7. With the above observations and directions, the Petition is dismissed in limine. No order as to costs.

**(A.A. SAYED, J.)**