

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6108 OF 2004

Shri Prakash Namdeo Shinde .. Petitioner
Vs.
The State of Maharashtra and ors. .. Respondents

Mr.N.V.Bandiwadekar, for the Petitioner.
Mr.S.B.Kalel, AGP for Respondents No.1 & 2- State.
Mr.Milind D. Parab, for Respondents No. 3 & 4.

(No R & P – Matter is under search)

**CORAM : A.A.SAYED &
M.S.KARNIK, JJ.**

04th JULY, 2017

PC. :

. By consent, copies of the Petition handed over by learned Counsel for the petitioner is taken on record and the Petition is heard.

2. The petitioner, by this Petition filed under Article 226 of the Constitution, has impugned the order dated 29/03/2004 passed by Deputy Director of Education, Kolhapur, Region, Kolhapur whereby approval granted to the petitioner (who is

Assistant Teacher working in the respondent -School) for transfer from un-aided division to aided division of Junior College was cancelled.

3. The petitioner was initially appointed in the respondent No.4 – College and worked as a part-time Assistant teacher till 31/01/1997 to which approval was granted. The petitioner was thereafter transferred to another school of same Management on 'Clock Hour Basis' to which also approval was granted. On 10/06/2000, the petitioner was appointed in the respondent – College in its un-aided section on probation which was also approved by the Education Officer. In August 2002, the petitioner was transferred from the un-aided section of the secondary school to the aided section of respondent No.4 Junior College. The petitioner was thereafter granted approval for the transfer on 24/02/2003. However, on 29/03/2004, respondent No.2 – Deputy Director of Education passed the impugned order cancelling approval dated 24/02/2003.

4. In the affidavit-in-reply of the Assistant Director of Education the reason given for cancellation of the approval was that the petitioner ought to have been appointed as Shikshan Sevak upon transfer.

5. The issue raised in the Petition is squarely covered by the three judgments of the Division Benches of this Court which are as under:

- i) Mrs.Shilprekha Vinayak Joshi Vs. The State of Maharashtra dated 14/02/2017 in Writ Petition No. 11065 of 2014 and other companion matters;
- ii) Dattu s/o Bhima Thorat Vs. The State of Maharashtra and ors. dated 11/10/2012 in Writ Petition No. 2960 of 2012;
- iii) Ms.Sandhya Laxman Ghosalkar Vs. State of Maharashtra dated 12/09/2012 in Writ Petition No. 5258 of 2012 and other companion matters.

It was held in the aforesaid judgments that on transfer of the Assistant Teachers from unaided to aided school/section of school, the said teachers would have to be continued as

Assistant Teachers and not as Shikshan Sevak.

6. In the light of the above, the Petition is disposed of by passing the following order :

ORDER

- i) The respondents Nos. 1 & 2 are directed to accord approval to the petitioner on the post of the Assistant Teacher and he be paid monetary benefits including arrears thereof as Assistant Teacher from the date he has been transferred. The same be done expeditiously and in any event within 3 months from today.
- ii) Rule is made absolute in the aforesaid terms.

(M.S.KARNIK, J.)

(A.A.SAYED, J.)