

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

WRIT PETITION NO. 7302 OF 2016

Shri Chavan Dattajirao Namdeo ... **Petitioner**

Vs.

State of Maharashtra & Ors. ... **Respondents**

Mr. Nagesh Y. Chavan, Adv. for the Petitioner.

Mr. V.N. Sagare, AGP for Respondents Nos.1 to 3.

Mr. N.V. Bandiwadekar, i/b Mr. S.A. Mane, Adv. for the Respondents
Nos. 5 & 6.

**CORAM : B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.**

DATE : 22 JUNE 2017.

P.C.:-

1. Rule. Rule made returnable forthwith. Heard by consent.
2. The Petitioner impugns the order dated 7th November 2014 by which Respondent No. 3 has revoked approval granted to the Petitioner's services by him on 20th December 2012.

3. The Petitioner was appointed in the Respondent No.6 school which is under the management of Respondent No.5 in the year 2004. However, it appears that the services of the Petitioner came to be terminated in the year 2006. Being aggrieved by this, the Petitioner approached learned School Tribunal. The learned School Tribunal by its judgment and order dated 24th June 2010 declared that the 'oral / otherwise termination' dated 9th March 2006 is quashed and set aside and directed Respondents Nos. 1 and 2 to reinstate the Petitioner in service with full back wages and continuity in service w.e.f. 9th March 2006.

4. It appears that, being aggrieved by the judgment and order passed by the learned School Tribunal, Respondents Nos. 5 & 6 have approached this Court and the learned Single Judge has granted stay only so far as back wages are concerned.

5. In pursuant to the order passed by the learned School Tribunal, the Respondents Nos.2 and 3 initially granted approval to the Petitioner vide order dated 12th December 2012 holding that the Petitioner would be entitled to approval and salary from 16th August

2011. It appears that the Respondent No.3 has also taken an undertaking that Petitioner would not claim from the government the arrears of salary prior to the said date. However, by impugned order the said approval is withdrawn. The learned AGP submits that since the learned School Tribunal has fastened the liability of reinstatement and arrears upon the Respondents Nos. 5 & 6, Respondent No.3 has rightly passed the impugned order.

6. We find that the impugned order is liable to be set aside on the ground of breach of principles of natural justice, as prior to passing the impugned order no notice was given to the Petitioner. In any case it appears that no one was appointed against the post of which the Petitioner was appointed. Respondent No.3 has also taken an undertaking from the Petitioner that he would not claim salary from the government prior to 16th August 2011. It is also mentioned in the order dated 20th December 2012 that on account of reduction of strength the Petitioner would be declared surplus and absorbed in other schools.

7. In view of the peculiar facts and circumstances, we find

that the Petition deserves to be allowed and order dated 7th November 2014 deserves to be quashed and set aside.

8. We, therefore, direct Respondents Nos. 5 & 6 to pay salary to the Petitioner in pursuance of the order dated 20th December 2012 within a period of three months from today. The Respondent No.3, Education Officer (Secondary), Zilla Parishad, Sangli shall also take necessary steps for absorbing the Petitioner in other schools in the event if there is no post available to accommodate the Petitioner in school of Respondents Nos. 5 & 6.

9. Rule is made absolute in terms of prayer clause.

(RIYAZ I. CHAGLA J.)

(B.R. GAVAI J.)