

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1223/1997

(Mrs. Rekha Dayanand Pawshe vs. Deputy Director of Education, Amravati and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Shri S.P. Dharmadhikari, senior counsel a/by Shri P.A.Kadu,
Advocate for the petitioner

**CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.**

DATED : 7th April, 2017.

Heard.

On hearing the learned counsel for the parties for some time, it is realised that the issues involved in this Writ Petition cannot be decided in exercise of the writ jurisdiction. The services of the petitioner have come to an end after the Science faculty in the School run by the respondent-Management was closed. The petitioner is out of service since then, though some interim orders were passed in favour of the petitioner during the pendency of the Writ Petition. It would be necessary to consider whether the petitioner is a confirmed employee as we do not find that an appointment order was issued in favour of the petitioner at the time of his appointment and also when he was continued on year-to-year basis. An appointment order is, however, secured by the petitioner from the education authorities, under the Right to Information Act. Be that as it may, since the services of the petitioner are otherwise terminated and the issues involved in this Writ Petition could be

appropriately decided in an Appeal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act 1977, we are not inclined to decide the issues.

Shri Dharmadhikari, the learned senior counsel for the petitioner states that the petitioner would avail the remedy of an Appeal under the Act of 1977. It is stated that the issues whether the petitioner was entitled to approval after the closure of the Science faculty and whether the petitioner was liable to be absorbed in any other institution, are ancillary issues which would be governed by the decision of the Tribunal on the issue whether the petitioner was appointed as per the provisions of the Act and whether the petitioner was a confirmed employee.

In view of the aforesaid, we dispose of the Writ Petition, with no order as to costs. The petitioner is free to avail the alternate remedy, in accordance with law. The points raised in the petition are kept open. In case the Appeal is filed, the Tribunal may decide the same as early as possible and within eight months.

JUDGE

JUDGE

safare