

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5188 OF 2016

(Shaila Anjum d/o Mohd. Rafique & Ors. vs. State of Maharashtra thr. Secretary, Ministry of
School Education & Sports & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.
JANUARY 31, 2017.**

Heard Shri M.R. Joharapurkar, learned counsel for the petitioners, Shri P. Tembhare, learned AGP for respondent Nos. 1 to 4 and Shri R.D. Karode, learned counsel for the applicant/ proposed intervenor in CAW No. 164 of 2017.

2. Petitioner No. 1 claims salary for the work done by her. Along with the petition, she has filed an order granting approval to her promotion as an Assistant Teacher. That order is dated 12.09.2014 and approval has been given from 01.09.2014 until further orders.

3. The effort of the proposed intervenor through Shri Karode, learned counsel is to demonstrate that the recruitment has been made without following proper procedure by a person who claims to be a Secretary and in minority.

4. It is obvious that such type of dispute cannot be

gone into by this Court in this jurisdiction. The applicant – Sayyed Jalal Haider Ali in CAW No. 164 of 2017 claims that he is a President and in majority. We are not in a position to record any finding on his contention. The facts show that he is not in position to make any appointment in the School or to supervise working therein. Hence, if he is out of charge, he has to follow appropriate procedure to regain the same from so called group in minority.

5. The respondents in their reply state that the School Tribunal has on 28.10.2015 allowed the appeal filed by one of the removed employee and hence it is necessary to reinstate that employee.

6. We find that need to reinstate that employee has got no bearing on the approval given to the employment of the petitioner. In the approval order dated 12.09.2014, it is not mentioned that it is subject to some adjudication in the proceedings before the School Tribunal. Similarly, pendency of any proceedings before the School Tribunal, is not pointed out. In any case, the petitioner cannot be denied salary for the work put in by her. If an employee approaches before the School Tribunal and is to be reinstated, it is open to the respondents to pass appropriate orders in the matter. However, till date they have not recalled the order granting approval.

7. In this situation, we direct the respondents to release the salary of the petitioner as per pay bills submitted

by Petitioner No. 3, within eight weeks from today. If they find that the approval could not have been given to the employment of the petitioner, they are free to take appropriate action against the officer/ officers of the Government found guilty in the matter.

8. Writ Petition is, thus, partly allowed and disposed of. Civil Application is also disposed of. However, there shall be no order as to costs.

JUDGE

JUDGE

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