

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

WRIT PETITION NO. 4507 OF 2016

(Shri Keshao Dhonduji Thakre vs. Education Officer (Secondary), ZP, Chandrapur & 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.
FEBRUARY 08, 2017.**

Heard Ms. Kirti Satpute, learned counsel for the petitioner, Shri P. Tembhare, learned AGP for respondent No. 1 and Shri P.N. Shende, learned counsel for respondent Nos. 2 & 3.

2. The petitioner was given Selection Grade after he obtained Post Graduate qualification. It has been cancelled on 22.07.2016 by stating that it was in breach of terms of Government Resolutions dated 27.02.2013, 25.05.2016 and 15.07.2016. Recovery was, therefore, also ordered.

3. This Court has on 05.08.2015 while issuing notice, stayed recovery. The grievance of the petitioner is, no opportunity was given to the petitioner on facts. Show cause notice was vague and the impugned order also does not point out exact prejudice.

4. Shri Shende, learned counsel supports the petitioner.

5. The learned AGP is relying upon the reply affidavit. According to him, the provisions of relevant Government Resolutions contemplate release of Selection Grade only if subject of Post Graduation is one in which the Teacher is imparting instructions in the School. According to him, here the petitioner is not teaching subject of Post Graduation.

6. Neither show cause notice nor the impugned order specifically points out this lacuna. It has been brought on record in the reply affidavit for the first time. In the result, if any other decisions of Government are in the field, neither the petitioner nor respondent Nos. 2 & 3 got the opportunity to point out the same.

7. Hence, we quash and set aside the impugned order only to enable respondent No. 1 to extend an opportunity of hearing to the petitioner in the light of reason pressed into service before this Court. The petitioner shall be given an opportunity to look into relevant Government Resolutions and fresh orders shall be passed within six weeks after 09.03.2017.

8. The petitioner and respondent Nos. 2 & 3 shall appear before respondent No. 1 on the said date and abide by his further instructions. It is clarified that quashing of the impugned order dated 22.07.2016 does not result in release of Selection Grade in favour of the petitioner. If the petitioner is found entitled to that release, appropriate

orders shall be passed by respondent No. 1 within the time specified above. If the orders are adverse, we grant the petitioner leave to approach this Court again.

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

JUDGE

JUDGE

*GS.