

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3715 OF 2017
WITH
WRIT PETITION NO. 3716 OF 2017
WITH
WRIT PETITION NO. 3752 OF 2017
WITH
WRIT PETITION NO. 3753 OF 2017
WITH
WRIT PETITION NO. 3754 OF 2017
WITH
WRIT PETITION NO. 3755 OF 2017
WITH
WRIT PETITION NO. 3756 OF 2017
WITH
WRIT PETITION NO. 3757 OF 2017

THE STATE OF MAHARASHTRA
VERSUS
PRASHANT INDERRAO PAWAR AND OTHERS

AGP for Petitioner : Mr. S.K. Tambe.
Advocate for Respondent No. 1 : Mr. S.S. Thombre.
Advocate for Respondent Nos. 2 & 3 : Mr. P.G. Deshmukh
h/f. Mr. Y.P. Deshmukh.

CORAM : RAVINDRA V.GHUGE, J.
DATED : 13th August, 2018.

PER COURT :

1. I have heard the learned AGP on behalf of the petitioners and the learned advocates appearing on behalf of the respondent/Management and the employees. It is noteworthy that these employees at issue have been terminated, after having put in about ten years of service with the Management, under the orders of

the Joint Director, Higher Education. The learned AGP submits that if this Court is of the view that no opportunity of hearing is given to the employees and if, by following the principles of natural justice, such opportunity can be granted, the petitioner may be permitted to resort to the said procedure.

2. He adds that the Management has suppressed the following documents from the three members committee :

(a) Copy of the advertisement (was never supplied for inspection).

(b) Applications of these persons who were appointed in service (were never furnished).

(c) Documents pertaining to the selection of such candidates and the selection process (were not furnished).

(d) No documents were shown to indicate that permission of the Education Department was taken prior to initiating the appointment process.

(e) Appointment orders are not placed before the Education Department.

3. He, further, submits that a serious complaint was lodged with

the Hon'ble Lok Ayukta, Maharashtra, with regard to nepotism and illegalities resorted to in recruiting the employees. Based on the directions of the Hon'ble Lok Ayukta, the State initiated an enquiry into the appointments by constituting a three members committee. The Management did not render cooperation and avoided supplying of documents to the enquiry committee. Finally, despite the non cooperation of the Management as well as the employees, the committee had arrived at a decision and ordered the termination of these respondent/employees.

4. The learned counsel appearing for the Management submitted that the documents pertaining to the selections and appointments of these respondent employees have been tendered to the Education Department when the proposals for approval were forwarded. If the Education Department is unable to trace out these documents, the Management cannot be blamed. Nevertheless, as the Management has followed the due procedure, it has no hesitation in facing an enquiry.

5. Learned advocate for the respondent/employees vehemently submits that after having put in ten years in employment, a frivolous objection by disgruntled elements could not have been entertained by the Hon'ble Lok Ayukta. Such complaints are normally triggered by disgruntled elements who intend to spoil the career of employees. For more than ten years the salaries of these respondents were being

regularly paid and merely because some mischievous elements raised doubts about their appointments, the careers of these respondents cannot be jeopardized. He, however, hastens to add that they should be discontinued in employment only if it is specifically proved that they had indulged in illegal acts for seeking employment. They are ever willing to face any enquiry and offer a reply to any notice as they intend to cooperate with the State. However, they cannot be made to starve by keeping them out of employment merely on the basis of mischievous complaints.

6. The learned AGP has submitted on instructions that the learned Division Bench of this Court (Coram : S.V. Gangapurwala and Sunil K. Kotwal, JJ.) has ordered on 09/07/2018, in Writ Petition No. 5318/2017, that the salary bills of the petitioners therein shall be considered by the Joint Director of Education.

7. Considering the above, I find that it would be appropriate that these respondents/employees are continued in employment and liberty is granted to the State to collect the documents that the three members committee finds necessary to carry out their inspection and based on such documents and after hearing the parties, the said committee could arrive at a final conclusion. It would be quite risky to enable any authority to dispense with the services of employees, who have worked for more than ten years, by forming an opinion, which is

without hearing such employees. If the committee finds their entry in employment is grossly illegal, the State Government may take a decision as it may deem fit and proper in accordance with law.

8. In view of the above, these petitions are disposed of with the following directions :

(a) The three members committee constituted by the State would prepare a list of such documents that they intend to scrutinize in view of the directions of the Hon'ble Lok Ayukta.

(b) Such list would be submitted to respondent No. 2 within a period of six weeks from today.

(c) Respondent No. 2 shall not refuse to accept the said communication along with the list and shall furnish the documents mentioned in the list to the said committee.

(d) If any document is not available, the Secretary of the respondent No. 2/Institution shall explain the reasons for the inability to submit the documents and shall tender an affidavit of the Secretary himself.

(e) The above stated documents or the explanation of the Secretary would be submitted to the committee within six weeks from the receipt of the communication from the committee.

(f) The committee would issue notice to the respondent No. 1/employees in these matters after the documents are collected and the committee is at liberty to cause a joint hearing involving the said employees as well as the representative of the Management. The above stated exercise would be completed within a period of twelve weeks.

(g) Thereafter, the committee shall prepare a reasoned report and submit its report to the Hon'ble Lok Ayukta, who thereafter, would be at liberty to deal with the said report as may be deemed fit, proper and appropriate.

(h) In the meanwhile, these respondent/employees would be reinstated, if not already reinstated (statement is made that they have already been reinstated) and their continuance and the payment of salary would be subject to the result of the enquiry and decision of the State.

(RAVINDRA V.GHUGE, J.)