

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**927 WRIT PETITION NO.4677 OF 2017**

MUJAHID KHAN JAFARKHAN PATHAN  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. P.G.Rodge, Advocate for Petitioner  
Mr. S.M.Ganachari, AGP for Respondents-State  
Mr. S.K.Chavan, Advocate for Respondent No.3  
Mr. V.G.Kodale, Advocate for Respondent No.5  
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**CORAM : PRASANNA B. VARALE AND  
MANGESH S. PATIL, JJ.**

**DATE : 07.12.2018**

**PER COURT :-**

1. Heard the learned counsel for the petitioner. The petitioner is before this Court challenging the suspension order dated 07.05.2016 issued by Respondent No.4 i.e. one private institute Deep Shikshan Sanstha Maganpura, Nanded through its President.

2. The learned counsel, by inviting our attention to the documents placed on record, submitted that the petitioner was appointed in the year 2005 as a Clerk subject to the condition namely the registration certificate granted to the institution. It was the further submission of the learned

counsel that the services of the petitioner were continued and a communication was forwarded from Respondent No.3 to the Head Master i.e. Respondent No.5. It was informed to Respondent No.5 that a communication was received from the office of the District Industries Center informing that though the petitioner was working with the institute and was on the role of the institute, the petitioner sought a loan under the Central Government Scheme for starting welding workshop. The Head Master was directed to submit his explanation report. On 11.04.2016, the Incharge Head Master submitted his report to State that when the petitioner submitted his loan proposal in the year 2014, Administrative approval was not granted in favour of the petitioner and the petitioner was facing financial hardship and was in need of finances. As such, he sought the loan amount. The District Social Welfare Officer could not find favour with the explanation dated 11.04.2016 and directed the Head Master to take immediate steps as the act of the petitioner was serious in nature. On 07.05.2016, in view of the communication from District Social Welfare Officer, the petitioner was subjected to suspension. The learned counsel then submitted that a communication was issued from the office of the District Industries Center, Parbhani to General

Manager, State Bank of India to submit that the petitioner though sought for loan facility, subsequently, he closed down the account and the benefit of subsidy was not granted to the borrower i.e. the petitioner.

3. Our attention was also invited to a document dated 07.05.2016 to submit that the institute, who submitted a complaint application to the authorities against the petitioner, also withdrew their complaint and it is stated in that communication that the President of the State Organization or institute namely Bhumi Sevabhavi Sanstha was satisfied with the documents shown to it.

4. An affidavit-in-reply is filed on behalf of Respondent No.4. It is submitted that in view of the communication forwarded by the District Social Welfare Officer dated 28.04.2016, the action was initiated against the petitioner. Then a statement is made in the affidavit-in-reply at paragraph No.4 that during the pendency of petition, the Commissioner of Handicap Welfare Maharashtra State, Pune has cancelled the permission granted to the institute to run the Handicap School at Jintoor. This cancellation order was passed on 03.05.2017. It is then submitted in the affidavit-in-reply that being aggrieved by the order dated 03.05.2017,

an appeal has been preferred by the institute before the competent authority. Then it is stated that the Respondent / School is not functioning but the answering respondent is having every hope of success in appeal and after allowing the appeal the answering respondent is ready to join the petitioner on the post of Clerk as he was working on the said post. The learned counsel for the petitioner submits that in view of the statement that the answering respondent is ready to join the petitioner on the post of clerk as he was working on the said post, the grievance of the petitioner would be redressed.

5. The learned counsel for the petitioner also admits the factual position that the order dated 03.05.2017 is subjected to challenge in appeal by Respondent No.4 and appeal is pending before the competent authority. In view of these facts and more particularly in view of the statement referred to by us and admitted by the learned counsel for petitioner, nothing survives in the petition. The petition is accordingly disposed of.

6. The learned counsel for Respondent No.4 / Institute further submits that as the inquiry was not conducted within the stipulated period posts issuance of order,

Respondent No.4 would withdraw the order dated 07.05.2016 putting the petitioner under suspension.

7. The learned counsel for petitioner then submits that as the petitioner was put under suspension without grant of any monetary benefits, the petitioner be permitted to raise his grievance before the competent authority and if such grievance is raised, the competent authority to consider the grievance of petitioner as per the provisions of law.

**(MANGESH S. PATIL, J.)**

**(PRASANNA B. VARALE, J.)**

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vmk/-