

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 646 OF 2014

Sunil S/o. Uttam Hase

.. **Petitioner**

Versus

The State of Maharashtra and others.. **Respondents**

Mr. Cedric Fernandes h/f. Mr. Amol N. Kakade,
Advocate for the Petitioner.

Mr. S. K. Tambe, A.G.P. for Respondent Nos. 1
and 2.

Mr. Ajay T. Kanawade, Advocate for Respondent Nos.
3 and 4.

Mr. Darshan Pokharkar, Advocate for Respondent
No. 5.

CORAM: S. V. GANGAPURWALA &
S. M. GAVHANE, JJ.

DATE: 10th October, 2018

PER COURT :

1. The learned counsel for the petitioner submits that the impugned order dated 05.12.2012 refusing to grant approval to the services of the petitioner is illegal. The petitioner is appointed prior to Mr. Pande as a Peon. Mr. Pande initially was appointed as Assistant Teacher. He could not have been considered as a Peon. The School Tribunal has allowed the appeal filed by the

present petitioner and directed the management to pay back wages and reinstate the petitioner. The arrears of salary is also not paid.

2. The learned counsel for the management submits that the arrears of salary is paid to the petitioner.

3. The learned A.G.P. submits that two posts of Peon are admissible in the institution, and approval is granted to Mr. Pande D. K. and Mr. Pande B. D. on the posts of Peon. There is no third post of peon admissible. The petitioner had approached the School Tribunal against his termination. The School Tribunal allowed the appeal directing reinstatement, payment of arrears and regular salary. The School Tribunal also observed that the appointment of the present petitioner is not legal. The State was not directed to pay any emolument to the petitioner.

4. As the approval is already granted to the posts of Peon to Mr. Pande D. K. and Mr. Pande

B. D. in the year — 2001, and considering the observation made by the School Tribunal, it will not be appropriate to direct the Education Officer to grant approval to the appointment of the petitioner. More particularly, when the post is not admissible.

5. There is a dispute with regard to the compliance of the order of the School Tribunal. The petitioner may file appropriate proceedings before the School Tribunal for execution of the order if the same is not complied with.

6. Writ Petition accordingly stands disposed of.
No costs.

[S. M. GAVHANE, J.] [S. V. GANGAPURWALA, J.]

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