

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

WRIT PETITION NO. 11194 OF 2016

**SHAIKH MOHAMMAD ASLAM MOHD IQBAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. Cedric Fernandes, Advocate h/f Mr.A.N. Kakade,
Advocate for the petitioner
Mr.N.T.Bhagat, AGP for the respondent/State
Mr.D.D.Pokharkar, Advocate for respondent No.2.

**CORAM : S.V.GANGAPURWALA &
S.M.GAVHANE, JJ.
DATED : 11.09.2018**

P.C. :-

The learned counsel for the petitioner submits that respondent No.2 has passed an order thereby setting aside the oral termination order and directing respondent No.3 to reinstate the petitioner. Mr. Pokharkar learned counsel for respondent No.3 submits that respondent No.2 does not have any jurisdiction to pass the said order. The jurisdiction only vests with the School Tribunal.

2. The petitioner seeks implementation of the order passed by respondent No.2 by filing the present writ petition. The learned AGP is not in a position to substantiate as to how respondent No.2 gets the jurisdiction to pass such order and under what authority he has passed the said order.

3. In the circumstances the learned counsel for the petitioner states that to approach the School Tribunal against his otherwise termination, the period lost may be considered.

4. It appears that the petitioner was labouring under bonafide belief that upon the order of respondent No.2, he would be reinstated. The petition is also pending since October 2016. The order is passed by respondent No.2 on 27.04.2016

5. The petitioner, it seems, had approached respondent No.2 on or above 14.10.2013 immediately upon his otherwise termination.

6. Considering all the aforesaid aspect of the matter, we pass the following order.

The petitioner is at liberty to take up the proceeding before the School Tribunal challenging his otherwise termination as permissible in law. The petitioner certainly may claim benefit of Section 14 of the Limitation Act before the School Tribunal. The School Tribunal may consider the time spent in prosecuting the proceeding.

7. The Writ Petition is disposed of. No costs.

[S.M.GAVHANE, J.]

[S.V. GANGAPURWALA, J.]