

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15109 OF 2017

Amreen Begum Riyaz Mohammed .. **Petitioner**

Versus

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

Shri Ramesh I. Wakade, Advocate for the Petitioner.

Shri A. V. Deshmukh, A.G.P. for Respondent Nos. 1 to 5.

CORAM : S. V. GANGAPURWALA &
SUNIL K. KOTWAL, JJ.

DATE : 4th June, 2018

PER COURT :

1. The petitioner claims to have been appointed as a 'Shikshan Sevak' on 16.6.2011. The school where the petitioner is appointed stood de-recognised under order dated 21.9.2012. The proposal seeking approval to the appointment of the petitioner as a 'Shikshan Sevak' is rejected on the ground that since the academic year 2012 - 2013 the school is closed and the recognition is withdrawn at the end of academic year 2011 – 2012.

2. Mr. Wakade, learned counsel for the petitioner further submits that though the school was de-recognised on 21.9.2012, the school was functioning and even the staffing pattern was approved by the Education Officer in the year 2013. The scholarships were disbursed till the academic year 2014. The petitioner was terminated in the year 2013. The petitioner filed an appeal before the School Tribunal. The School Tribunal on merits allowed the appeal. The school tribunal had granted stay to the termination. Pursuant thereto, the petitioner was continued in service and the same was confirmed at the time of final order.

3. The learned Assistant Government Pleader submits that the school stood de-recognised on 21.9.2012. Even prior to that inspection was made and panchanama is drawn on 29.12.2011 to the effect that the school is closed. The petitioner cannot claim approval in view of the de-recognition.

4. It is further submitted that the appeal was filed by the management against de-recognition. The appeal was dismissed.

Subsequently, review has been filed by the management and the same is pending.

5. We would be concerned with the decision as on the date of the appointment of the petitioner. The petitioner claims to have been appointed on 16.6.2011. The order of de-recognition is dated 21.9.2012. Naturally, from the date of appointment till the date of de-recognition the petitioner must have worked for one year. At the relevant time of appointment the authorities were required to consider the factual situation. Of course, even after one year of his service with the school, as the school is de-recognised the petitioner cannot be considered for absorption. However, if subsequently the recognition of the school is restored and the petitioner claims to have worked in the year 2014, then the case of the petitioner can be considered afresh provided the recognition is restored.

6. Considering the above, the Education Officer shall reconsider the proposal seeking approval to the appointment of the petitioner on its own merits for a period the petitioner was

appointed and till the date of de-recognition. The same shall be considered expeditiously and preferably within six (6) months. While considering the said proposal the impugned order would not be an impediment. Depending upon the decision of the Education Officer on the proposal of the petitioner, further consequences would follow.

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

[SUNIL K. KOTWAL, J.] [S. V. GANGAPURWALA, J.]

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