

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.2669 OF 2018
WITH
WRIT PETITION NO.2670 OF 2018**

Dr.Mrs.Padma Shamrao Patil
Residing at Post Latawade,
Tal.Hatkanagale, Dist Kolhapur .. Petitioner
Vs.

1. The President
Shahu Shikshan Prasarak
Mandal, Vadgaon,
Kolhapur ..
2. The Principal
Shri Vijaysinh Yadav Art, Science and
Commerce College, Peth Vadgaon,
Tal.Hatkanagale,
Dist. Kolhapur ..
3. Shri Ramchandra Uttam Dhavale
R/at Juni Peth, Pandharpur,
Tal. Pandharpur, Dist. Solapur, ..
4. The Joint Director,
Higher Education, Kolhapur Region,
Kolhapur, Dist. Kolhapur ..
5. The Registrar,
Shivaji University, Kolhapur ..
6. The Director,
College and University Development
Board, Shivaji University,
Kolhapur .. Respondents.

Mr. Mihir Desai, Senior Advocate I/b Mr.Ghanavat Sukumar Rajaram for the petitioner.

Mr. Shirish V. Pitre for respondent no.2.

Mr. N.B. Bandiwadekar I/b Ashwini Navjyot Bandiwadekar for respondent no.3.

Ms. Vaishali Nimbalkar AGP for respondent no.4.

Mr. Amit Borkar for respondent no.5.

CORAM : A.K. MENON, J.

RESERVED ON : 25TH APRIL, 2018

PRONOUNCED ON : 1ST AUGUST, 2018

JUDGMENT

1. These two petitions are filed by a secondary teacher challenging the common order dated 31st January, 2018 passed by the Presiding Officer, Pune, College Tribunal in Appeal Nos.59 of 2002 and 3 of 2007. These petitions were taken up for final hearing at the stage of admission, considering the checkered history of the case. In the circumstances, Rule. Rule made returnable forthwith. By consent of the parties taken up for final hearing.

2. In brief the impugned order sets aside an order of terminating service of respondent no.3 dated 23rd June, 2003 and directs reinstatement of respondent no.3 with continuity of service and all consequential benefits but without back wages from termination till reinstatement. The impugned order dismissed Appeal No.59 of 2002 and partly allowed Appeal No.3 of 2007. Appeal No.59 of 2002 challenged an order dated 5th August, 2002 of

whereby the services of respondent no.3 were terminated. The Tribunal passed an order dated 11th March, 2003 whereby the petitioner was reinstated in service. Being aggrieved by the order, respondent no.3 filed Writ Petition No.4267 of 2003 which came to be allowed on 7th September, 2017 remanding the matter to the Tribunal with the direction to decide the matter afresh. Meanwhile, respondent no.3 also filed Appeal No.3 of 2007. Thus, Appeal Nos.59 of 2002 and 3 of 2007 came to be decided by the common order impugned herein.

3. The facts that lead us to the present controversy arise as follows : The petitioner and respondent no.3 had both applied for the post of a full time lecturer in Marathi, subject to approval of the respondent nos.5 and 6 University. Respondent No.1 is the President of a Trust which runs an educational institution by the name of Vijaysinh Yadav Art, Commerce and Science College, Peth Vadgaon, Taluka Hatkanagale, District Kolhapur. Respondent No.2 is the principal of the college and respondent no.4 is the Joint Director of Higher Education. The Respondent-Management issued an advertisement inviting applications for the post of full time lecturer in Marathi in the open category. The petitioner and respondent no.3 both having applied, were called for interviews on 13th October, 2000 at which the Selection Committee chose respondent no.3, who was then placed at Serial No.1. The petitioner was placed at Serial No.2. It is the case of the petitioner (denied by respondent no.3) that respondent no.1 (Management) had sent an

appointment order and letter to respondent no.3 calling upon him to join duties within seven days. Apparently Respondent no.3 did not join, as a result, the Management is believed to have informed the University (a fact denied by respondent no.3) that the College had called upon respondent no.3 to submit his degree certificate and mark-list of the NET/SET examination. It is undisputed that respondent no.3 communicated to the University vide letter dated 26th May, 2001 that he is not interested in the post as the respondent college is run on a non-grant basis. It is contended that the management called upon the petitioner to join and issued an appointment order in favour of the petitioner on 22nd November, 2000 and was directed to join services with effect from 29th November, 2000 on probation for two years. Her appointment is said to have been approved by the University.

4. In Writ Petition No.2669 of 2018, the contention of the petitioner is that respondent no.3 was sent an appointment order but respondent no.3 did not join the duties within seven days. It is Respondent no.3's case that after the selection process, respondent no.3 was not informed of his appointment and after eight months on or about 16th August, 2001, Respondent no.3 complained to the University about the appointment of the petitioner. In view of the complaint from 23rd July, 2007, the petitioner was not allowed to sign the muster although she was continuing in the service of respondent no.1. On enquiries made, the petitioner was informed that respondent no.3 had complained to the University of the fact that he was placed at Serial No.1

and was entitled to the post. The University had constituted an enquiry committee. On 16th March, 2002, the University is believed to have issued notice to respondent nos.1 and 3 and a hearing was held on 20th March, 2002, apparently without notice to the petitioner. The concerned respondent then issued notice of termination of services to the petitioner dated 5th August, 2002 and issued an ad-hoc order of appointment dated 20th August, 2002 to respondent no.3.

5. The petitioner then filed Appeal No.59 of 2002 before the College Tribunal. The respondent no.3 joined the college on 20th August, 2000. It transpires that after hearing all parties the Tribunal vide judgment and order dated 11th March, 2003, found that the enquiry conducted by the committee was unilateral and without granting an opportunity to the petitioner to be represented. The Tribunal, therefore, allowed Appeal No.59 of 2002 and set aside the order of termination dated 5th August, 2002 and further declared that the decision taken by the University to withdraw the approval granted to the petitioner is also illegal and improper. Meanwhile the petitioner rejoined services. Being aggrieved by the said judgment and order of the Tribunal, Respondent No.3 filed Writ Petition No.4267 before this Court on 28th July, 2003. The writ petition came to be admitted and the Court granted an order of status quo till further order. Meanwhile in the civil application taken out by Respondent no.3, this Court allowed him to challenge the order of termination before the Tribunal and that is how Appeal No.3 of 2007 came to

be filed. The petitioner in meanwhile continued to be in service while respondent no.3.

6. On 7th September, 2007, Writ Petition No.4267 of 2003 came to be decided and the judgment and order of the College Tribunal dated 11th March, 2003 came to be set aside. The Court directed Appeal No.3 of 2007 to be heard along with Appeal No.59 of 2002 and in the meantime directed that the petitioner's services shall not be disturbed. Pursuant to the said order in Writ Petition, the parties carried out amendment to the pleadings and the appeal came to be heard. According to the petitioner, the order in the writ petition was erroneous. It is petitioner's case that the complaint filed by respondent no.3 was hit by delay of over eight months and had no merit. Meanwhile, the Tribunal heard the appeals. The Tribunal partly allowed Appeal No.3 of 2007 filed by the respondent and dismissed the appeal filed by the petitioner. It is alleged that the Tribunal did not consider documentary evidence filed by the petitioner. The said judgment and order is under challenge.

7. Mr.Mihir Desai, learned Senior Advocate appearing on behalf of the petitioner submitted that the order is liable to be set aside. It was submitted that there was no occasion for the Tribunal to disturb the services of the petitioner. Firstly, because the respondent no.3 vide letter dated 26th May, 2000 contended that he was not interested in the post and the Presiding Officer ought not to have doubted the veracity of the letter merely because

respondent no.3 had contended that it was not written by him. Secondly, it is contended that the appeal was belated and the Tribunal should have taken that into consideration. Thirdly, the fact that the petitioner had been employed in the college for 17 years should have been considered and ought to have granted relief to the petitioner and could not have granted reinstatement to respondent no.3.

8. Mr.Desai further submitted that the respondent no.3 should have approached the Chancellor under the Universities Act but had not exercised that option. He submitted that the interpretation of the tribunal as far as Statute No.195 is concerned, was erroneous and the selection committee was only a recommendatory body and not an appointing authority which could differ from the decision of the Selection Committee. He submitted that procedure followed was completely wrong and therefore the impugned order was not sustainable.

9. Mr.Pitre, learned Advocate appearing on behalf of the respondent no.2 – management has submitted to the orders of the Court and stated that the management has no objection if either the petitioner or respondent no.3 is allowed to continue in service.

10. Mr.Bandiwadekar, learned counsel appearing for respondent no.3 in these petitions submitted that his client is being made to suffer for no fault of his. He submitted that the contention of the petitioner that respondent no.3 had written to the University on 31st May, 2001 is incorrect. No such letter

had been written by respondent no.3. Mr.Bandiwadekar invited my attention to a copy of letter alleged to have been written by respondent no.3 to Shivaji University, Kolhapur on or about 31st May, 2001. The letter appears to be dated 26th May, 2001 and is addressed by one “Uttam Ramchandra Dhavale” whereas the name of the respondent no.3 is “Ramchandra Uttam Dhavale”. The signature of respondent no.3 is appears on other correspondence and the proceedings completely different from the one appearing on the letter dated 26th May, 2001. Moreover, “Uttam” appears to be name of his father. As seen from acknowledgment bearing No.1085, the contention of the petitioner that respondent no.3 had himself opted against joining the University is therefore a wrong statement and the letter was fabricated. He submitted that the petition must be dismissed in limine, in view of the petitioner having relied upon fabricated documents.

11. Mr.Bandiwadekar relied upon statute framed under Section 42(1) of the Shivaji University Act, 1974 and relied upon statute No.195 which deals with mode of recruitment of teachers. For ease reference the mode of recruitment is reproduced as follows :

“3. Procedure :

(a) Mode of Recruitment : All appointments to posts categorised above shall be made on merit on the basis of wide advertisement as approved by the University. The qualifications stated should not be linked with the regional,

communal or caste considerations. The particulars of minimum and other qualifications, is any, stating emoluments should be included in the advertisement and reasonable time of one month should be allowed within which the applicants may, in response to the advertisement, submit their applications. Knowledge of Marathi is essential.

(i) Provided that : The Affiliated Colleges and Recognised Institutions shall reserve 24 p.c. of the total number posts of teachers to be filled in by selection for members of the scheduled castes and scheduled tribes, denotified tribes as under :

<i>1) Scheduled Castes</i>	<i>13 p.c.</i>
<i>2) Scheduled Tribes</i>	<i>7 p.c.</i>
<i>3) Nomadic Tribes and Vimukta Jatis</i>	<i><u>4 p.c.</u></i>
	<i>24 p.c.</i>

(ii)

(iii)

(b)

(c)

(d)

(e) The Governing Body shall appoint from amongst the persons so recommended and approved by the Vice-

Chancellor the Principal of the number of teachers required to fill in the posts advertised.

Such appointment shall be strictly according to the order of merits prepared by the Selection Committee and approved by the Vice-Chancellor.

Provided that, where the Governing Body proposes to make an appointment otherwise in accordance with the order of merit arranged by the Selection Committee, it shall record the reasons in writing and submit them to the Vice-Chancellor, who may approve the proposal or return it to the Governing Body for reconsideration. After reconsideration, if the Governing Body desires to pursue its original proposal, it shall refer the matter again to the Vice-Chancellor for his decision which shall be final."

As seen from the above, he submitted that the appointment is required to be made on the basis of merit. He submitted that an advertisement had been issued in the instant case and had been followed through as a natural consequence. The Governing Body is required to appoint from amongst the persons recommended and approved by the Vice Chancellor of the number of teachers required to fill in the posts advertised and such appointments are strictly to be on the merit list prepared by the Selection Committee and

approved by the Vice Chancellor. He submitted that such appointments are required to be strictly in order of merit prepared by the Selection Committee and if the Governing Body proposes to make an appointment otherwise then in accordance with the order of merit, reasons are required to be recorded.

12. Mr.Bandiwadekar submitted that the appointment of respondent no.3 was strictly in accordance with the procedure laid down. He submitted that respondent no.3 never received letter of the University offering him the post and no letter dated 24th May, 2001 referred to in alleged letter dated 26th May, 2001 had ever been received by his client. In the circumstances, the question of responding to the letter dated 24th May, 2001 did not arise. Once this is established Mr.Bandiwadekar submitted that there was no occasion for the impugned order to be interfered with. He submitted that the order of the Tribunal was proper and required no interference.

13. Mr.Bandiwadekar relied upon affidavit in reply filed by respondent no.3 to the petition wherein he reiterated the contention that after the interview, the Selection Committee's report (as seen from Exhibit-A to the petition) records that only if respondent no.3 did not join, the next incumbent i.e. the petitioner would be entitled to the post. Mr.Bandiwadekar submitted that the management should have issued the appointment letter only to respondent no.3 as per statute 195(3)(e). The statute clearly provides the process to be adopted yet the management issued an appointment letter to the petitioner with effect from 29th November, 2000. It is submitted that the

management appears to have furnished false information to the University vide letter dated 23rd February, 2001, a copy of which is annexed to Exhibit-C to the affidavit in reply. In the said letter it is stated that on 16th October, 2000 the College had entered into some correspondence and had written to the respondent no.3 demanding attested copy of B.A. degree, M.A. degree and S.E.T. examinations but till date the Management had not received the same from respondent no.3 and hence the Management cannot submit the same to the University. Mr.Bandiwadekar submits that respondent no.3 never received any letter dated October, 2000. In the meanwhile attested copies and passing certificate of the petitioner were received by Management. Mr.Bandiwadekar submitted that this is false and a clear case of Management favouring the petitioner. The mischief continued inasmuch as the letter dated 26th May, 2001 appears to have been fabricated and delivered to the University mentioning that respondent no.3 was not interested since he was unaware that the college is an unaided college and that the documents were not provided since he was not interested in the post. This is clearly an attempt to create evidence against respondent no.3 to favour the petitioner.

14. Mr.Bandiwadekar invited my attention to various Exhibits to the petition and in particular the Minutes of the Inquiry Committee dated 20th March, 2002 wherein the complaint of the respondent no.3 was dealt with and he pointed out that the minutes of meeting recorded that the Deputy Registrar had clarified that the purpose for which meeting was held and the

management representative Mr.Thorat, who was the Secretary submitted that the permission can be granted to fill up post in question by publishing an advertisement. Alternatively, the management considered that any decision taken by the University would be accepted by them. It is thereupon that the committee agreed that respondent no.3 should file an affidavit stating that the impugned letter attributed to him has not been addressed by him. Such affidavit was then prepared and executed on or about 31st May, 2002 wherein respondent no.3 stated that till 15th August, 2001 he had not received any letter about the interview held on 13th October, 2000 and that there was no question of sending a reply to the said letter. He affirmed that he had no connection with the letter dated 26th May, 2001 said to have been sent by "Uttam Ramchandra Dhavale". In view of above decision of the University, with the consent of respondent – management and since the complaint was found to be proper, the University cancelled the appointment of the petitioner and granted approval to respondent no.3's candidature and that is how the appointment letter 20th August, 2002 came to be issued. In support of his contention Mr.Bandiwadekar relied upon following decision :

(i) Ganpatbhai Mahijibhai Solanki vs. State of Gujarat & Others (2008) 12 SCC 353.

15. On behalf of respondent no.5 Mr.Borkar, the learned counsel for the University submitted that the petitioner being at serial no.2 and the respondent no.3 being at serial no.1 had initially acted on the letter of

relinquishment dated 26th May, 2001 received by it on 31st May, 2001 and it is on this basis approval was granted in the honest belief that respondent no.3 was not interested in the post. Respondent No.5 supported the impugned order and contended that the test of prejudice was already laid out in the case of *Swadeshi Mills vs. Dharmapal Satyapal Limited vs. Deputy Commissioner of Central Excise, Gauhati and Others (2015) 8 SCC 519*. He submitted that prejudice if at all would be legal prejudice and in the instant case the petitioner could not claim to suffer any legal prejudice.

16. All learned counsel have meticulously taken me through relevant documents and the pleadings. Having heard learned counsel and with their able assistance having perused the impugned orders, pleadings as well as relevant Exhibits, I am of the view that no interference is called for.

17. Mr.Desai was at pains to submit that the petitioner had been in service for about 17 years and that it would not be appropriate to disturb her from the said post. He supported the petitioner's case inter alia relying upon the following decisions :

(i) *Priyanka Krida & Shikshan Prasarak Mandal Vs. Thane Mahanagar Shikshan Mandal & Ors. WP No.5963 of 2011 dated 22.12.2011;*

(ii) *Vidarbha Medical Education & Research Foundation & Anr. Vs. Maharashtra University of Health Sciences & Ors. WP No.2961 of 2011 dated 25th July, 2011;*

(iii) *The Board of High School and Intermediate Education, U.P. & Ors. vs.*

Kumari Chitra Srivastava & Ors. 1970 (1) SCC 121;

(iv) A.K. Kraipak & Ors. vs. Union of India & Ors. 1969 (2) SCC 262.

18. In *Priyanka Krida & Shikshan Prasarak Mandal* (supra) the Division Bench of this Court observed that the Education Officer either under the MEPS Act or by Secondary School Code could not direct the management to terminate services of any teacher and the appointing authority of the teacher in a private school is the Management. The Education Officer can at the best may approve or disapprove the appointment, but beyond that it was not for the Education Officer to impose upon the management his decision to terminate services of the teacher because the teacher did not held Education qualification. Mr.Desai submitted that in the instant case also the University could not have decided to appoint the respondent no.3 and terminate the services of the petitioner. On the other hand, it was decision of the management to appoint the petitioner and that should be honoured.

19. In the case of *Vidarbha Medical Education and Research Foundation* (supra) the Single Judge of this Court had observed that the Grievance Committee of the University under the Maharashtra Universities Act must prepare a report and forward the same to the Management Council which alone has been empowered to take the final decision in the matter. In that case, the Management Council had not heard the appellants at all and this procedure has, therefore, resulted in complete breach of the Rules of natural justice. The Court had relied upon the observation of the Supreme Court in

Gallapali Nageswara Rao and Ors. vs. Andhra Pradesh State Road Transport Corporation & Anr. AIR 1959 SC 308 in which the Court observed that while the Act and the Rules framed thereunder impose a duty on the State Government to give a personal hearing, the procedure prescribed by the Rules imposes a duty on the authority to hear the parties. In that case it was the duty of the Secretary to hear and the Chief Minister to decide. This divided responsibility was found to be destructive of the judicial hearing and such procedure was held to be defeating the object of personal hearing which enable the authorities to consider conduct of the parties as well. While these are critical aspects, as regards applicability of the rules of natural justice and as submitted by Mr.Desai it is relevant for the purpose to consider whether in the instant case, the petitioner should have been given a hearing.

20. I am of the view that when the matter before the Board of Enquiry which conducted hearing into complaint filed by respondent no.3, could have given a hearing to the petitioner but considering the fact that the complaint was made against management, it was a matter between the University and college acting on the complaint of respondent no.3. Ideally one would have expected the University to inform the petitioner of proposed action in view of the College having submitted to action proposed to be taken by the University unilaterally, but in the peculiar facts of the case the University was not obliged to grant a hearing to the petitioner. In the facts of the present case, the impugned order cannot now be assailed on the

ground of alleged violation of principles of natural justice since the petitioner had succeeded on that very ground in the first round in her Appeal No.59 of 2002. Moreover, I find that there is no record at all that has been produced to establish that the letter from the management calling upon him to join the services was issued to respondent no.3. At all stages the management was expected to produce its letter but it has failed to do so. Thus, when considered along with fact that respondent no.3 had challenged authenticity of alleged letter dated 26th May, 2001 there is a strong indication of mischief being played by the management and their repeated failure to produce records pertaining to the said letter being addressed to respondent no.3 will require an adverse inference be drawn. The conduct of the management at this stage by submitting to order of the Court is not surprising. The fact that despite submitting to the orders of the University and given its obvious inability to produce records of the letters said to have been written to respondent no.3 even at this stage, speaks volumes. In the circumstances there is no evidence to sustain the case of the petitioner and management that a letter was issued to respondent no.3 calling upon him to join the services. There is also considerable substance in the contention of respondent no.3 that the alleged letter dated 26th May, 2001 was not addressed by him. The name of the Respondent No.3 is incorrectly written and the signature appearing thereon is not his.

21. In the case of Kumari Chitra Srivastava and Ors. (supra) reliance

was placed by Mr.Desai on the contents of paragraph 8 to the effect that fruits of the petitioner's labour should not be denied that the treatment meted out to the petitioner is in form of penalty since she was not heard in the matter and decision was taken by the University without notice to her, therefore, in violation of Rules of natural justice. I do not see how this judgment is of any assistance to the petitioner since the view that I have taken is to the effect that this is matter between the University and the School. The School was required to protect interest of the petitioner after it though it fit. The petitioner, however, had an opportunity of being heard when she challenged the order and had initially succeeded. The allegation of violation of rules of natural justice cannot relate back to the first order passed by the University and to which the school offered no resistance and on the contrary agreed to abide by the order.

22. In A.K. Kraipak and Ors. (supra) case the Constitution Bench of Jammu and Kashmir High Court considered the applicability of natural justice to administrative proceedings. In paragraphs 17 and 20, scope of action taken by an Immigration Officer in Queen's Bench Division case of re H K (An Infant) (1967) 2 QB 617 came up for consideration and in which it was observed that an Immigration Officer is not acting in a judicial or quasi-judicial capacity and then it was not a question of acting or being required to act judicially but of being required to act fairly and taking into consideration good administration. An honest or bonafide decision must

require not merely impartiality or applying one's mind to bear on the problem, but acting fairly and within the legislative framework under which rules of natural justice are applicable. In paragraph 20 the constitution bench observed that the aim of the rules of natural justice are to secure justice or to put it negatively, to prevent miscarriage of justice and these rules can operate only in areas not covered by any law validly made. In other words, the Court aptly put and described it as they do not supplant the law of the land but supplement it. No doubt these observations are fundamental to decision making, however, in the facts and circumstances of the instant case, I am of the view that the petitioner cannot succeed in this petition as on the very ground which was urged before the Tribunal upon remand for the reasons set out above.

23. Mr.Desai in the rejoinder had submitted that when approval is cancelled by the fact finding committee and enormous delay is caused, the college has acted in favour of respondent no.3. The University has not followed rules of natural justice and service of the petitioner of 17 years is a long time. This in my view would not be of assistance to Mr.Desai's client since continuing in a post without there being a legal sanction to it would not justify continuance of the consequences of wrong doing by the management, since it has been found that the appointment of the petitioner itself was illegal, to start with. Assuming the respondent – management was not in position to produce documentary evidence of having written letter to

respondent no.3 offering him the post in the first round. it would certainly have been disclosed whether the matter was agitated once again after remand by this Court. Even the amendment of the pleadings had not resulted in the management establishing the fact that it had offered the post to respondent no.3. Its contentions post amendment are weak and baseless. It is clear therefore that the petitioner being employed in the college, the management always intended to assist the petitioner and interest of respondent no.3 was sacrificed. The petitioner had thus far enjoyed the benefits of mischief played by management. In any event the petitioner was alerted to the fact that her appointment had been called into question when respondent no.3 lodged its complaint and the University took action, I am therefore of the view that unfortunate though it may seem, the petitioner cannot be permitted to continue in the post. Although the petitioner may not be an active participant in the machinations of the management, she was undoubtedly the beneficiary.

24. The order of a Single Judge of this Court had directed the University to submit entire record and files in respect of revocation of approval to the appointment of the petitioner including the papers of the fact finding Committee before the Tribunal and the Tribunal was directed to go into issue of termination/appointment, approval and revocation of approval threadbare and without being influenced by the findings of the fact finding Committee of the University. The management had every opportunity to produce relevant record which it failed to do. From the conduct of the parties

it is obvious that there was no communication from the management to respondent no.3 offering the post. This has resulted in very serious violation of law apart from violation of principles of equity and good conscience. It is mischief engineered to benefit the petitioner and which has resulted in great hardship to respondent no.3 and bordering on fraudulent behavior on behalf of the management. As evident from subsequent conduct, the management meekly submitted to the orders of the University, a factor that is indicative of lack of conviction in its version of facts. In my view the impugned order does not suffer from any illegality. It has considered all aspects of the case and the conclusion arrived at by the Tribunal cannot be faulted. The impugned order correctly observes that the Selection committee had selected respondent no.3 at first place in the merit list and the statute 195(3)(e) contains a mandate for recording reasons for making an appointment otherwise than in accordance with merit list. No such reasons have been recorded and indeed no such approval was sought. Nothing has been shown to establish that attempts were made to contact respondent no.3 at the material time. Furthermore, the contention of respondent no.3 that the alleged letter dated 26th May, 2001 was not addressed by him is also well established. Nothing has been shown to the contrary. There is no challenge to this aspect. It clearly appears that the letter has been planted to cover up deficiencies in the procedure followed by the management. The said letter, therefore, cannot be taken into consideration to hold against

respondent no.3 and by no stretch of imagination respondent no.3 could have addressed the letter placing his father's name as first name and his own name as the middle name. The conclusion that the letter dated 26th May, 2001 appears to be forged is well founded.

25. In the circumstances, I find no merit in the challenge. The impugned order is liable to be upheld and complied with forthwith and in any event within a period of 30 days from the date of uploading of this order. No doubt 17 years is a long period of service for the petitioner and it will cause discomfort and would deprive the petitioner of services. However, that by itself is no reason to grant relief in this petition since the petitioner's appointment was wrong in the first place. However, this order will not be seen to cast any aspersions on the conduct of the petitioner since there is no cogent reason to find fault in having accepted the appointment. The source and architect of mischief is the management of the college and the petitioner, the beneficiary. For that reason, I am of the view that they should be burdened with an order of costs. Accordingly, I pass the following order :

- (i) Writ Petitions are dismissed.
- (ii) The respondent-management shall pay costs of Rs.30,000/- in each of these petitions to respondent no.3 and Rs.15,000/- in each of these petitions to respondent no.5.

(A.K. MENON,J.)