

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8876 OF 2015

Shri Amol Bhoju Dalvi

..Petitioner

Vs.

The State of Maharashtra and Others

..Respondents

Mr. N. V. Bandiwadekar I/b Mr. S. A. Mane, for the Petitioner.

Mr. S. B. Kalel, AGP, for Respondent Nos.1 to 3 and 5.

Ms. Trupti V. Tambe, for Respondent No.6.

CORAM:-**B.R.GAVAI & B. P. COLABAWALLA, JJ.**

DATE :- **JANUARY 22, 2018.**

P. C.:

Rule. Rule made returnable forthwith. Heard by consent.

2 The Petition challenges the order dated 26th June, 2014 vide which the approval granted to the Petitioner vide orders dated 23rd June, 2014 and 25th June, 2014 has been withdrawn.

3 The perusal of the impugned order dated 26th June, 2014 would reveal that, the approval is withdrawn on the ground that the post on which the Petitioner was appointed was not a

sanctioned post.

4 However, in the affidavit in reply, totally different reason is given. It is stated in the affidavit that the post on which the Petitioner was appointed was a reserved post and the Petitioner belongs to an open category.

5 The Apex Court in the case of **Mohinder Singh Gill and Another v/s the Chief Election Commissioner, New Delhi and Others** reported in **AIR 1978 SC 851** has held that the affidavits cannot improve the impugned order. There is another ground on which the impugned order deserves to be quashed and set aside. It is not preceded by the principle of natural justice in as much as neither the Petitioner nor the management were given a show cause notice prior to withdrawal of the same.

6 In that view of the matter, the Petition is allowed. The impugned order is quashed and set aside. The matter is remitted back to the Education Officer for deciding it afresh in accordance with law after giving an opportunity of hearing to all the concerned.

(B. P. COLABAWALLA, J.)

(B. R. GAVAI, J.)