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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.2745 OF 2014

Javed Akhtar	..Petitioner
Versus	
Directorate of Technical Education and Others	..Respondents

ALONGWITH
CHAMBER SUMMONS NO. 64 OF 2014
IN
WRIT PETITION NO.2745 OF 2014

Smt. Zaibunissa Malik	 Applicant.
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In the matter between

Javed Akhtar	 Petitioner.
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V/s

Directorate of Technical Education and Others	 Respondents.
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Mr. Chetan Mali for the Petitioner.

Mr. Surel Shah alongwith Mr. Sanjay S. Gawde for the Applicant in
Chamber Summons No.64/2015.

Ms. Geeta Shastri, Addl. Government Pleader for Respondent Nos. 1, 2
and 4.

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

DATE: 8th JANUARY, 2018

P.C.:-

1] Rule. Rule is made returnable forthwith. Respondents waive service. Heard by consent of parties.

2] Petitioner has approached this Court, being aggrieved by the order dated 12/08/2013, thereby rejecting the proposal for grant of promotion to the Petitioner as Head of the Department, Mechanical Engineering.

3] Petitioner was initially appointed as a lecturer in Mechanical Engineering on 09/09/1993. Petitioner was placed in senior scale on 09/04/2007. On 27/10/2008, Petitioner was given additional charge of the post of Principal.

4] Perusal of the record would reveal that the Management of Respondent No.3 had sought permission from Respondent No.1 for filling up the post of Head of the Department, Mechanical Engineering. Vide communication dated 01/03/2008, Respondent No.1 communicated to the Management its approval for making appointment on the said post by promotion. The Selection Committee was also constituted for the said purpose. In pursuance to the aforesaid permission, Selection Committee selected the Petitioner for

being promoted as Head of the Department, Mechanical Engineering. Petitioner, as such, was promoted from 04/02/2009. After selection, the Management sent a proposal to Respondent No.1 for grant of approval to the petitioner's appointment on promotion as Head of the Department, Mechanical Engineering. Vide impugned order dated 12/08/2013, the said proposal is rejected.

5] Perusal of the impugned order would reveal that, the proposal is rejected on the ground that promotion is required to be made in accordance with the provisions of the Government Resolution dated 10/09/2012. Since the same was not done, it is stated that the proposal could not be considered.

6] In the affidavit filed on behalf of the Respondent/State itself, it has been admitted in para 10 that Hon'ble Supreme Court in the case of Pramod V/s. State of Maharashtra, has held that Government Resolution dated 12/09/2012 issued by the State Government is not applicable to the appointment of Principal in Polytechnic Technical Institution, holding diploma courses and the provisions of M.E.P.S Act are applicable.

7] We are of the considered view that, even without the effect of the Judgment of the Hon'ble Apex Court in the case of Pramod V/s. State of Maharashtra, the impugned order would not be sustainable. It could be seen that, firstly, the permission has been granted by Respondent No.1 for filling up the post of Head of the Department on

01/03/2008. Petitioner has been selected for being promoted as Head of the Department, Mechanical Engineering in pursuance to the permission granted dated 01/03/2008 and was selected by Selection Committee on 04/02/2009. In any event, the Government Resolution dated 10/09/2012 could not have been made applicable to the promotion which was effected in the year 2008-2009.

8] In any case, since the Hon'ble Apex Court has held that the said Government Resolution is not applicable to the Polytechnic Technical Institution like Respondent No.3, it will have to be held that the present Petition deserves to be allowed.

9] Petition is allowed. Rule is made absolute in terms of prayer clauses (a) and (b). Needless to state that in view of disposal of the Petition, all Chamber Summons, Notices of Motion, if any, stand disposed of.

(B. P. COLABAWALLA, J.)

(B. R. GAVAI, J.)