

IN THE HIGH COURT OF JUDICATURE AT BOMBAYBENCH AT AURANGABAD**WRIT PETITION NO. 8670 OF 2016**

Kapil S/o Bhimrao Wadmare,
 Age : 29 Years, Occ. Unemployed,
 R/o Panchsheelnagar, Palwan Road,
 Tq. & Dist. Beed : PETITIONER

...VERSUS...

1. The State of Maharashtra,
 Through Commissioner,
 Handicapped Welfare,
 Maharashtra State, Pune.
2. The Regional Deputy Commissioner,
 Social Welfare Department,
 Aurangabad.
3. The Social Welfare Officer Group-A,
 Zilla Parishad, Aurangabad.
4. The President,
 Twaritadevi Bahu Uddeshi Seva,
 Bhavi Sanstha, Beed.
5. The Head Master,
 Twaritadevi Bahu Uddeshi Seva,
 Bhavai Sanstha's Matimand Niwasi
 Vidyalaya, Beed By-Pass Road,
 Behind Mhaske Petrol Pump,
 Tq. & Dist. Aurangabad. : RESPONDENTS

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Shri. Suresh B. Deshmukh, Advocate for the petitioner.
 Shri S.P. Sonpawale, A.G.P. for the respondent nos. 1 to 3.
 Shri S.S.Thombre, Advocate for the respondent nos. 4 and 5.

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**CORAM : PRASANNA B. VARALE AND
 ANIL S. KILOR, JJ.**

DATED : 4th DECEMBER, 2019.

JUDGMENT (Per ANIL S. KILOR, J.)

Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.

2. The petitioner was working as a Special Teacher in respondent no.5 school and he was not allowed to work after 30th July, 2012. Therefore he raised a grievance by filing appeal challenging his otherwise termination. The Regional Deputy Commissioner, Social Welfare Division, Aurangabad, rejected the said appeal vide its order dated 3rd February, 2016, the same is under challenge in the present petition.

3. Heard Shri S.B.Deshmukh, learned counsel for the petitioner, Shri S.S.Thombre for respondent nos. 4 and 5 & Shri S.P. Sonpawale, learned A.G.P. for respondent nos. 1 to 3.

4. Shri Deshmukh, learned counsel for the petitioner submits that petitioner is holding Educational

qualification HSC and 'Diploma in Early Childhood Special Education Mental Retardation'.

5. He submits that petitioner was appointed as Special Teacher in respondent no.5 School and he continuously worked in the said school, till 30th July, 2012, however on the said date the Management terminated the petitioner by not allowing him to attend the school.

6. Shri Deshmukh, learned counsel for the petitioner submits that as per Government Resolution dated 18th August, 2004, the petitioner is possessing requisite qualification and he is eligible to work as Special Teacher.

7. He submits that 'Diploma in Early Childhood Special Education Mental Retardation' after HSC was the required qualification to hold the post of Special Teacher in the respondent Special School, on the date of appointment on 11th September, 2009. Therefore, the qualification which the Regional Deputy Commissioner is referring to as per the R.C.I. letter dated 11th January, 2012, which has prospective application, the said qualification would not

apply to the petitioner. Hence, he submits that oral termination as well as rejection of appeal, is illegal.

8. Shri Thombre, learned counsel for the respondent nos. 4 and 5 submits that the respondent no.4 is running Respondent no. 5 School for the age group of 6 to 18 years and though at the relevant time the petitioner was appointed but he does not possess the requisite qualification for appointment on the said post. Moreover, he submits that there is no approval granted to his appointment by the competent authority.

9. He further submits that he was prevented from attending the school only because he is not having the requisite qualification and therefore there is no illegality committed by the management of the school in removing the petitioner.

10. He further submitted that the appeal filed before the Regional Deputy Commissioner, was time barred and it was rightly rejected by the Regional Deputy Commissioner.

11. Learned Assistant Government Pleader submits that the educational qualification which the petitioner, possesses is a Diploma in Early Childhood Special Education Mental Retardation' which even as per RCI is the minimum qualification for Special Education Teacher for Pre-School Nursery and Play School. The qualification prescribed in Government Resolution dated 18th August, 2004 that is prior to the appointment of petitioner, for appointment as a Special Teacher, was certificate of Secondary or Higher Secondary with training and specialized training in the concerned category and registration with RCI.

12. He submits that though the Diploma possessed by the petitioner is registered with RCI, but the said qualification is for as a 'Special Education Teacher' in Pre-school Nursery or Play-school and not in the Elementary Primary Upper Primary School like the respondent no.5 School.

13. To consider the rival contentions of the parties, we have gone through the record.

14. There is no dispute that the petitioner is holding qualification of HSC and 'Diploma in Early Childhood Special Education Mental Retardation' registered with RCI, however, as pointed out by respondents that even considering Government Resolution dated 18th August, 2004, which was issued prior to the appointment of petitioner, the petitioner does not possess the requisite qualification to work as a Special Teacher in respondent no.5.

15. The required education qualification is certificate of Secondary or Higher Secondary with Specialized Training in the concerned category and registration with RCI. However, qualification possesses by petitioner makes him qualified for the play school or pre-school Nursery and not for Elementary Primary Upper Primary School. Therefore, Regional Deputy Commissioner has rightly rejected the appeal of the petitioner by holding that the petitioner is not qualified for holding the post of Special Teacher in respondent no.5 school.

16 We find that the findings given by the Regional Deputy Commissioner are just and proper and it needs no interference.

17. Hence, the writ petition is dismissed. Rule is discharged.

18. With no order as to costs.

JUDGE
JUDGE
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