

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

WRIT PETITION NO.7051 OF 2009

Shri. Sharad Bhimrao Sanghavi (Kamble) ..Petitioner
Versus
Shri. Swami Vivekanand Shikshan Sanstha
and others ..Respondents

Mr. S. P. Kadam, Advocate for the Petitioner.
Mr. A. K. Kenjale, Advocate for Respondent Nos.1 & 2.
Ms. Nisha Mehra, AGP for Respondent Nos.3 & 4.
Mr. R. S. Khadapkar, Advocate for Respondent No.5.

**CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATE : 21st AUGUST, 2019

P.C.

- 1] Heard learned counsel for the parties.
- 2] The Petitioner has had a fairly roller coaster journey since he was employed on a temporary basis by the 1st Respondent Trust and deputed to work as a Lecturer in Sociology with Respondent No.2; an institution established by Respondent No.1.
- 3] The appointment was through Local Selection Committee and the Respondent No.5 of which Respondent No.2 was a constituent college, granted the necessary approval on 15.10.1999.

4] Petitioner's services were terminated by the 1st Respondent on 22.04.2005. He challenged the termination by filing an Appeal before the College Tribunal which was allowed on 08.09.2006.

5] Respondent No.1 accepted the order passed by the College Tribunal and deputed the Petitioner to work at another college established by it named A. R. Patil Mahavidyalaya, Ichalkaranji. The Petitioner ran into a road block. One Smita Patil was also employed as a Lecturer in Sociology by Respondent No.1 feared that she would lose her job. She rushed to this Court by filing Writ Petition No.7481 of 2006. She obtained an order in her favour not to be disturbed from current posting. When the Petitioner reached A. R. Patil Mahavidyalaya, Ichalkaranji, he was informed that there was no vacant post in Sociology because Smita Patil had obtained stay from this Court. The Petitioner was constrained to file Writ Petition No.317 of 2007 which was tagged with Writ Petition No.7481 of 2006 filed by Smita Patil and both Petitions were disposed of on consent terms dated 25.04.2007. The 1st Respondent agreed that the Petitioner and the Smita Patil would continue to work as Lecturers in Sociology. As regards the present Petitioner, Respondent No.1 agreed that he would be treated as a permanent Lecturer in Sociology and would be paid wages.

6] Instant Petition came to be filed when Respondent No.5 refused to grant approval to Petitioner being made permanent without sanction of the University in terms of the consent between the

Petitioner and the Respondent No.1. The said decision taken by Respondent No.5 has been challenged in the instant Petition.

7] The stand of Respondent No.5 is that if permanent vacancies were available, recruitment process is at the State level with representative of the University in Selection Committee had to be resorted to. Respondent No.5 pleads that the Petitioner was appointed against a temporary vacancy by following the procedure of selection at the local level; that the consent terms dated 25.04.2007 were without the participation of the University and thus the University would not be responsible for the acts of the 1st Respondent.

8] From the aforesaid facts it is apparent that Respondent No.1 is responsible for the entire mess. Respondent No.1 has agreed to give permanent employment to the Petitioner and supports the Petitioner. Thus, the 1st Respondent has to ensure salary and other allowances to be paid to the Petitioner.

9] However, we note that there is a communication dated 26th June 2009 issued by the State Government which binds even Respondent No.5 University. As per said decision appointments made at the local level Post 19.09.1991 till 11.12.1999 are required to be regularized.

10] The problem appears to have arisen on account Respondent No.1 having terminated the services of the Petitioner on

22.04.2005 and thereafter reinstated the Petitioner on 07.11.2006.

11] Thus, we terminate the proceedings by directing Respondent No.5 to grant a hearing to the Petitioner as also Respondent No.1 and in the light of the communication afore-noted and pass an order.

12] Needful shall be done by Respondent No.5 within six weeks from today.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE