

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

WRIT PETITION NO.10067 OF 2010

Madhav Rajaram Gavai	..Petitioner
Versus	
Gokhale Education Society and others	..Respondents

**WITH
WRIT PETITION NO.6621 OF 2007**

Gokhale Education Society	..Petitioner
Versus	
State of Maharashtra and others	..Respondents

**WITH
CIVIL APPLICATION NO.1621 OF 2019
IN
WRIT PETITION NO.6621 OF 2007**

Shri. Madhav Rajaram Gavai	..Applicant
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IN THE MATTER BETWEEN

Gokhale Education Society	..Petitioner
Versus	
State of Maharashtra and others	..Respondents

Mr. S. G. Kudle, Advocate for the Petitioner in WP No.10067/10 & for Respondent No.6 in WP No.6621/2007.

Mr. V. S. Talkute, Advocate for Respondent No.1 in WP No.10067/10 & for Petitioner in WP No.6621/2007.

Mr. P. M. Palshikar, Advocate for Respondent No.2 in WP No.6621/2007.

Mr. Vignesh Iyer I/by Mr. Rui Rodrigues, Advocate for Respondent

No.3 in WP No.10067/2010.

Mr. K. S. Thorat, AGP for Respondent Nos.2 & 4 – State in WP No.10067/2010 & for Respondent Nos.1 & 5 in WP No.6621 /2007.

**CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.**

DATE : 29th JULY, 2019

P.C.

1] The two Writ Petitions are being disposed of by a singular order because the facts are common.

2] The litigating parties are Gokhale Education Society - Writ Petitioner of Writ Petition No.6621 of 2007 and Shri. Madhav Rajaram Gavai - Writ Petitioner of Writ Petition No.10067 of 2010. The dispute between the two arises on the fact that Gokhale Education Society established B.Ed. College in which Shri. Madhav Gavai was given employment as Principal. He was on probation. The governing body in its meeting dated 10.12.2007 decided not to confirm his service and to terminate his employment.

3] The decision of the governing body was formally conveyed to Shri. Madhav Gavai on 13.02.2007 but before that Shri. Madhav Gavai approached Grievance Redressal Committee constituted under the Maharashtra Universities Act, 1994 (for short "the said Act") on 05.06.2007. The Grievance Committee opined that the termination was invalid. The said decision of the Grievance

Committee has been challenged by Gokhale Education Society in Writ Petition No.6621 of 2007 and the argument is simple. It is premised on Sub Section (2) of Section 57 of the said Act. The provision reads as under :-

“57. Grievances Committee:- (1)

(2) It shall be lawful for the grievances committee to entertain and consider grievances or complaints which are not within the jurisdiction of the Tribunal and report to the Management Council to take such action as it deems fit and the decisions of the Management Council on such reports shall be final.”

4] Sub Section (1) of Section 59 of the same Act provides that where an employee of a college is dismissed, removed, terminated or reduced in rank, he shall have a right of appeal before the Tribunal constituted under the Act.

5] Indeed, Shri. Madhav Gavai chose to challenge the order terminating his service by filing appeal before the Tribunal and the appeal came to be dismissed vide order dated 17th December 2007 against which Shri. Madhav Gavai filed Writ Petition No.2583 of 2008 which came to be dismissed by a learned Single Judge on 15th April 2008. Said order was challenged by way of Intra Court Appeal registered as LPA No.415 of 2008 which was dismissed by the Division Bench on 13th March 2009. The Petition seeking Special

Leave to Appeal before the Supreme Court was declined on 3rd November 2009. Shri. Madhav Gavai filed an application seeking review of the order passed by the Division Bench which Review Application came to be dismissed on 14th July 2014.

6] Grievance of Shri. Madhav Gavai in Writ Petition No.10067 of 2010 is that since this application seeking review of the Division Bench order dated 13th March 2009 was pending, the employer could not fill up the post of Principal of the B.Ed. College. Prayer made is to injunct the employer to appoint Respondent No.5 as Principal.

7] From the afore-noted facts, it is clear that Shri. Madhav Gavai took resort to the statutory remedy of appeal under Section 59 of the said Act and has lost the battle right till the Supreme Court. He cannot be granted any relief in the Writ Petition filed by him because he has no locus-standi now to question Respondent No.5 being appointed as Principal. As regards the Writ Petition filed by Gokhale Education Society, suffice it to state that the jurisdiction of the Grievance Committee under Sub Section (2) of Section 57 of the said Act, excludes such decisions against which statutory appeals under Section 59 of the said Act lie.

8] Indeed against an order of termination, appeal lies to the Tribunal and thus while dismissing Writ Petition No.10067 of 2010, we allow Writ Petition No.6621 of 2007 quashing the decision dated

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05.06.2007 passed by the Grievance Committee.

9] Parties to bear their own costs in the Petitions.

10] In view of the above, Civil Application No.1621 of 2019 does not survive and is accordingly disposed of.

N. M. JAMDAR, J

CHIEF JUSTICE