

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Writ Petition No.2003 of 2019
[Ku. Prerna Bapurao Bahe Vs. State of Mah., Gen. Administration
Deptt. & others]

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr. P. S. Patil, Adv., for the petitioner.
Ms. Mehta, AGP for respondent nos. 1 to 4.

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**CORAM : R. K. DESHPANDE AND
S. M. MODAK, JJ.**

DATE : 22nd April, 2019

In the decision of the Apex Court in the case of
Secretary, A.P.D. Jain Pathshala & others Vs.
Shivaji Bhagwat More & others [(2011) 13 SCC 99],
it is held in paragraph 32 as under:-

“32. Even assuming that the committees constituted under the Shikshan Sevaks Scheme were quasi-judicial tribunals, they cannot direct reinstatement nor direct that the employees are deemed to continue in service by declaring the termination to be bad. It is well settled that courts would not direct reinstatement of service nor grant a declaration that a contract

of personnel service subsists and that the employee even after removal is deemed to be in service [See *S. Dutt v. University of Delhi*]. The three recognised exceptions to the said rule are : (i) where a public servant having the protection of Article 311 of the Constitution is dismissed from service in contravention of the provision; (ii) where a dismissed workman seeks reinstatement before Industrial Tribunals/Labour Courts under the industrial law; and (iii) where a statutory body acts in breach or violation of the mandatory obligation imposed by a statute. (See *Vaish Degree College v. Lakshmi Narain*). The direction of the High Court in its order dated 5-8-2008 that when the Grievance Committee holds that the termination is bad, the Shikshan Sevak is deemed to continue on the rolls of the management is therefore erroneous and liable to be set aside."

On the basis of the aforesaid view, the learned Single Judge of this Court has held that Clause 86 (1) of the Special Code regarding filing of an appeal would not be applicable. The petitioner has, therefore, filed this petition seeking a direction to the respondents to provide a statutory forum for redressal of the grievance of the employees working in deaf and dumb schools run on the basis of the grant-in-aid from Social Welfare Department and recognized by the Director of Social Welfare.

We cannot direct the respondents to legislate, much less, to issue administrative or executive instructions providing a forum for appeal to challenge

the order of termination. Writ Petition is dismissed.

If the petitioner has a remedy of filing a civil suit, she shall be at liberty to adopt such remedy in accordance with law.

Judge

Judge

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