

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.6293/2019

Ku. Perna Bapurao Bahe vs. State of Maharashtra and ors.

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

Shri. P. S. Patil, Advocate for the petitioner.
Shri. A. M. Deshpande, Additional Government Pleader for
respondent Nos.1 to 4.

CORAM : **R.K. DESHPANDE &
VINAY JOSHI, JJ.**

DATED : **13th September, 2019**

The petitioner was appointed as an Attendant in the Residential School for the Mentally Retarded Children. The petitioner filed an appeal before Regional Deputy Commissioner, Amravati on 05-06-2015 when her services were terminated. The service conditions of the petitioner were governed by Maharashtra Handicapped Special School and Training Center Code. The Appeal preferred by the petitioner before the Appellate Authority was as provided under the Code. The Appeal came to be allowed and the petitioner was directed to be reinstated in service. The order of reinstatement was set aside by this Court in Writ Petition No.215 of 2016, filed by the Management on the ground that the Appellate Authority to adjudicate the dispute arising out of termination, cannot be appointed by the executive instructions. In other words the function of adjudication cannot be entrusted by

executive instructions. The Appeal was accordingly dismissed.

After dismissal of the appeal, again the State Government has created the Appellate Authority, as per the Government Resolution dated 05-02-2019. The challenge of the petitioner is that such Government Resolution is contrary to the decision of this Court in Writ Petition No. 215 of 2016 decided on 10-01-2017.

We do not find as to how the challenge to the Government Resolution dated 05-02-2019 would benefit the petitioner. If it is contrary to the decision of this Court, the petitioner cannot avail the said remedy. However, it does not mean that the petitioner cannot approach the Civil Court to challenge the termination or to claim compensation for wrongful termination from service as is available in law. This is not the petition challenging the termination from service.

In view of above, we do not find any reason to entertain this petition.

The petition is dismissed.

The petitioner is at liberty to adopt all such remedies as are available in law.

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