

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1441 OF 2019
(Pravin Pandurang Patil Vs. The State of Maharashtra and others)

Mr. T.M. Venjane, Advocate for the petitioner
Mr. V.M. Kagne, A.G.P. for the respondent/State
Mr. U.B. Bondar, Advocate for respondent Nos.2 and 3

CORAM : S.V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.

DATE : 13.01.2020

PER COURT :

Mr. Venjane, learned counsel for the petitioner submits that the salary of the petitioner is stopped from August, 2014 under the impugned communication. He submits that the petitioner was appointed as Junior Clerk after following due procedure on 01.04.2005. On 08.05.2007, proposal for grant approval to the said appointment was submitted. The Education Officer granted approval on 29.05.2010 for a period of three years. Again on 01.08.2010, the petitioner was appointed to the post of Clerk on permanent basis. The proposal was submitted to the Education Officer on 04.08.2010 for approval to such appointment. The Education Officer granted approval to the said appointment under order dated 25.08.2010. The learned counsel submits that abruptly, under the impugned communication, the salary of the petitioner is stopped.

2. Mr. Bondar, learned counsel for respondent Nos. 2 and 3 submits that the appointment of the petitioner is without following proper procedure. The scam was discovered in Latur district. Illegally, additional divisions were attached by the then Education Officer Mr. Vilas Joshi. He was held guilty in the departmental enquiry. Hence the approval to the appointment granted during the tenure of Mr. Joshi is cancelled. The school Management has not sought no objection from the Government for making appointment of the petitioner to the post of Clerk. There were surplus candidates to be absorbed.

3. We have considered the submissions.

4. It is not disputed that the proposal seeking approval to the appointment of the petitioner was granted initially for a period of three years and subsequently, permanent approval is also granted to the appointment of the petitioner as a Clerk.

5. The case of the respondents is not that the appointment of the petitioner was on additional divisions. At the time when the petitioner was appointed, the post of Clerk was vacant. It is already held by this Court that the Education Officer once having granted approval to the appointment cannot cancel it and the said exercise can be undertaken by the Deputy Director of Education. Under the Government Resolution dated 28.01.2019, even the staffing pattern is approved for Class-III posts.

6. In light of the above, the impugned order to the extent of the petitioner is quashed and set aside. The school Management may forward the salary bills of the petitioner since the date the petitioner is not paid salary, which shall be processed and considered by the Authority concerned on its own merits.
7. The present order would not be an impediment for the Deputy Director of Education to take any action, if he so desires.
8. The Writ Petition is accordingly disposed of. No costs.

[MANGESH S. PATIL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE