

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
44 WRIT PETITION NO.3477 OF 2020**

SUDHIR SHANKARRAO MISAL

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. A. D. Khot h/f Mr. Pralhad D. Bachate, Advocate
for the Petitioner.

Mrs. M. A. Deshpande, AGP for Respondents-State.

Mr. Rahul D. Khadap, Advocate for Respondent No.5.

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**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATED : 02nd MARCH, 2020.

PER COURT:-

1. Heard the learned counsel for the petitioner, learned counsel for respondent no.5 and the learned A.G.P.

2. The approval was granted to the appointment of the petitioner as Head Master on 18.01.2020. The said approval was subject to the decision that would be taken in an Appeal filed by respondent no.5. Subsequently, on 05.02.2020 approval granted in favour of the petitioner is canceled and the petitioner is given powers of in-charge Head Master.

3. It is the contention of the petitioner that the impugned order dated 05.02.2020 is without notice to the petitioner.

4. The earlier order granting approval in favour of the petitioner was conditional one. It

was subject to the decision that would be taken in an Appeal filed by the present respondent no.5 against his termination. The respondent no.5 was working as Head Master prior to the petitioner.

5. When approval was already granted to the petitioner as Head Master subject to the decision in an Appeal filed by respondent no.5, if the Education Officer had to recall the same, it could not have done without notice to the petitioner. The right was created in favour of the petitioner once the approval was granted. Without hearing the petitioner the impugned order could not have been passed.

6. In light of that, the impugned order is quashed and set aside.

7. In case, the Education Officer is of the opinion that the approval order dated 18.01.2020 is required to be reconsidered, then the same shall not be done without notice to the parties and without hearing the parties.

8. The writ petition is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE