

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.12616 OF 2018

Vasant Khandu Dahiwade,
Age : 48 years, Occ. Service,
r/o. c/o. Gram Bharti Sanstha,
Kai. Babasaheb Paranjape Residential
Handcapped School,
Zilla Parishad Colony,
Sadar Bazar, Ambajogai, Dist. Beed ..Petitioner

Vs.

1. The State of Maharashtra,
Through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai
2. The Commissioner,
Handicapped Welfare,
Church Road,
Pune — 411 001
3. The Regional Deputy Commissioner,
Social Welfare, Aurangabad Division,
Kokadpura, Aurangabad
4. The District Social Welfare Officer,
Zilla Parishad, Beed
5. The Administrator,
Kai. Babasaheb Paranjape Residential
School, District Social Welfare Officer,
Beed

6. The President,
Gram Bharti Shikshan Sanstha,
Sadar Bazar, Ambajogai,
Tq.Ambajogai, Dist. Beed
(Respondent no.6 deleted as per
Court's order dated 28.08.2019)
7. The Secretary,
Gram Bharti Shikshan Sanstha,
Sadar Bazar, Ambajogai,
Tq.Ambajogai, Dist. Beed
8. The Head Master,
Kai. Babasaheb Paranjape Nivas,
Apang Vidyalaya,
Sadar Bazar, Ambajogai,
Tq. Ambajogai, Dist. Beed ..Respondents

Mr.Satish Bhosale, Advocate h/f. Mr.V.D.Gunale,
Advocate for petitioner
Mr.P.M.Kulkarni, AGP for respondent nos.1 to 3
Mr.V.M.Chate, Advocate for respondent no.4
Mr.S.L.Pansambal, Advocate for respondent no.7
Mr.R.I.Wakade, Advocate for respondent no.8

CORAM : R.G. AVACHAT, J.
RESERVED ON : SEPTEMBER 11, 2019
PRONOUNCED ON : FEBRUARY 28, 2020

ORDER :-

The challenge in this Writ Petition is to
the order dated 28.07.2018 passed by Regional Deputy
Commissioner, Social Welfare Department, Aurangabad

Division, Aurangabad (respondent no.3) in appeal, being Appeal (Handicapped) No.2 of 2015. By the impugned judgment and order, the claim of the petitioner for grant of approval to his appointment (so called) as a Hostel Superintendent in respondent no.5 – School, release of salary grant to the said post and to pay him arrears of salary, has been turned down.

2. Heard learned Counsel appearing for the parties.

3. Mr.Bhosale, learned Counsel appearing for the petitioner, would submit that the petitioner is Graduate in Arts stream. He is physically handicapped. He belongs to Scheduled Caste. He has also completed one year certificate course in teaching in Handicrafts and work experience. Respondent no.7 – Secretary of Gram Bharti Shikshan Sanstha ("the Institute", for short) appointed the petitioner on the post of Hostel Superintendent with

effect from 13.07.1996. Respondent no.7 runs the residential school for handicapped persons. Since the date of appointment, the petitioner has been serving in said Institute. The State Government, vide resolution dated 18.08.2004, has sanctioned the post of Hostel Superintendent. The President of the Institute issued the petitioner the continuation order on 13.09.2004 and directed the In-charge Headmaster of respondent no.5-school, to forward a proposal for administrative sanction of the post of Hostel Superintendent, on which the petitioner has been working.

4. Learned Counsel for the petitioner would further submit that the petitioner is the qualified person to hold the post of Hostel Superintendent. His appointment has been made after due process of law. The management has not paid him salary since the date of his appointment, except payment of Rs.14,000/-, during the year 2013-14. Vide Government Resolution dated 18.08.2004, the Government has fixed

the staffing pattern of teaching and non-teaching employees of the school. For handicapped students, a post of Hostel Superintendent has, thus, been sanctioned in the pay scale of Rs.3050-4590. Learned Counsel would further submit that neither approval has been granted to the petitioner nor he has been paid salary. The petitioner, therefore, moved an appeal to the Regional Deputy Commissioner (respondent no.3) for grant of approval and payment of salary. His appeal has, however, been turned down. The petitioner is, therefore, before this Court.

5. Learned Counsel appearing for the respective respondents would, on the other hand, submit that no post of Hostel Superintendent has ever been sanctioned. The petitioner has not been appointed by following the due process of law. The Secretary of the Institute did not have authority to appoint the petitioner. There is no evidence to indicate the petitioner to have ever served as Hostel Superintendent. What has been paid to the petitioner

was towards the services rendered by him for personal work of the Secretary of the Institute (respondent no.7). Learned Counsel, therefore, urged for rejection of the petition.

6. The petitioner belongs to Scheduled Caste category. He has earned Bachelor's degree in Arts stream. He is physically disabled. The record also indicates the petitioner to have passed examination of teaching in Handicrafts and work experience in First Class.

7. The question is, whether the petitioner has, in fact, been appointed as Hostel Superintendent in the residential school for handicapped students, run by the Institute.

8. I have minutely perused the judgment/decision impugned in this Writ Petition, to find that the Institute has been authorised to run a residential school for twenty five handicapped students. Eight posts have been sanctioned for the

said school i.e. a Special Teacher, Arts Teacher (two posts), one post of Junior Clerk, Caretaker, Cook, maid servant and Peon. It appears that the Secretary (respondent no.7) of the Institute, vide its communication dated 05.07.1996, temporarily appointed the petitioner on the post of Hostel Superintendent. It has been observed in the impugned judgment and order that it is the Secretary of the School Committee-cum-Headmaster, who is authorised to make appointment to the post of the private schools. Respondent no.7 - Secretary did not have any authority to issue appointment order. As such, the so called appointment order of the petitioner is non-existent in the eye of law. The petitioner did not have any document to show that he has been appointed after following the due process of law. No post of Hostel Superintendent was sanctioned when the petitioner was allegedly appointed. As such, the petitioner does not have any right/claim to the post.

9. In the result, the petition fails. The same is, therefore, dismissed.

[R.G. AVACHAT, J.]

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