

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7619 OF 2020

MOHAMMAD ABDUL HAI OSMAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Shri Deshmukh Sachin S.
AGP for Respondents 1 to 3 : Shri S.R. Yadav Lonikar
Advocate for Respondents 4 and 5 : Shri M.N. Shaikh h/f Shri
S.S.Kazi

Advocate for Respondent 6 : Ms.A.N.Ansari

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CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.

DATE :- 04th October, 2021

Per Court :-

1. By this Writ Petition, the petitioner has put forth
prayer clauses A and B as under :-

“A) *By issuance of a writ of mandamus or any other appropriate writ, order or direction in the like nature, it be directed to the respondent school management to submit the comprehensive proposal of the petitioner as a special teacher for the unit run by the respondent school management forthwith with further directions to the competent authority to accord the necessary approval conferring the service benefits upon the petitioner from initial date of appointment; and for that purpose issue necessary directions.*

B) *To hold and declare that, the petitioner is trained Special Teacher in the wake of the qualification possessed by the petitioner i.e.*

B.A., B.Ed. Post Graduate Professional Diploma Course (VI) P.G.P.D. recognized by the Rehabilitation Council of India (RCI) along with the consequential service benefits upon the petitioner by setting aside the impugned order of at Exh.D issued by the respondent school management; and for that purpose issue necessary directions.”

2. The learned advocate representing the respondent/ Management submits that the service of the petitioner from 14.06.2010 till he was terminated, after completion of three years on 13.06.2013, has already been approved. He has not challenged his termination. Even when he was issued with the notice of termination dated 09.04.2013, he has not challenged the said notice as well.

3. The verification affidavit has been sworn on 11.10.2020 and this petition has been filed on 12.10.2020. If prayer clause A is seen, the petitioner prays for approval from the date he joined as a Special Teacher. Since his service was already approved for the period he had worked, we are not required to pass any order.

4. In prayer clause B, we find that the said prayer clause is quite vague. The petitioner has merely prayed that as he is a trained special teacher, the impugned order at Exhibit D

should be set aside. No details of the impugned order are set out in prayer clause B. On perusal of the exhibit D, we find that it is the termination order of the petitioner dated 13.06.2013 which has not been challenged till October, 2020. No provision of law has been pleaded or cited to indicate to the Court as well as to the respondents as to whether, such termination order issued by the private school could be assailed directly before the High Court under Article 226 of the Constitution of India. Moreover, the order of termination is more than 07 years old.

5. In view of the above, as the petitioner is not in employment for more than 08 years as on date and has not challenged his termination order for more than 07 years with no explanation as to what were the circumstances that restrained him from assailing the termination order within a reasonable period, we do not find that this could be a fit case for exercising our writ jurisdiction under Article 226 of the Constitution of India.

6. This Writ Petition, being devoid of merit is, therefore, dismissed.