

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9898 OF 2019

Vinod Tanaji Bhagat

...Petitioner

vs.

The State of Maharashtra & Ors.

...Respondents

Mr.Machindra A. Patil for Petitioner.

Mr.A.B. Kadam, AGP for Respondent Nos.1 to 3.

**CORAM : S.C. GUPTE &
SURENDRA P. TAVADE, JJ.**

DATE : 13 JANUARY 2021

P.C. :

Heard learned Counsel for the Petitioner and learned AGP for Respondent State. Rule. Rule taken up for hearing forthwith by consent of Counsel.

2 The petition involves a narrow controversy concerning reinstatement of the Petitioner to the post of Assistant Teacher/Lab Assistant. The Petitioner was appointed on compassionate grounds sometime in 2011. Despite the appointment order and the Petitioner having joined the post, the Education Officer did not sanction the same or grant approval and in the premises, the school management issued a termination order to the Petitioner. The Petitioner thereupon approached the School Tribunal impugning the termination order. By an order dated 16 December 2016, the School Tribunal partly allowed the appeal and quashed and set aside the order of termination dated 22 August 2016. The School Tribunal directed the Respondents to reinstate the Petitioner to his

original post within 40 days from the date of the order. The Petitioner was given benefits of service and seniority, etc. keeping the date of communication of his proposal to the Education Department (10.1.2014) as the date of his appointment for such purposes. Despite reinstatement of the Petitioner, the Respondent State (Respondent Nos.1 to 3) has failed to sanction the post or grant approval for the same. Hence the petition.

3 Learned AGP submits that the State will have to consider the question of availability of the post. We are afraid no such position is open to the State. Education Officer (Secondary), Zilla Parishad, Sangli, who is Respondent No.3 to the present petition, was a party Respondent to the Petitioner's appeal before the School Tribunal and the order is binding on him. If the State was aggrieved by this order, it was for the State to have challenged it in a manner permissible in law. The State has obviously not taken any steps; and four years have since passed. The Petitioner has worked throughout this period. It is now too late in the day to withhold sanctioning of the post or granting of approval to the appointment.

4 Rule is, accordingly, made absolute and the petition is allowed by directing Respondent Nos.1 to 3 to sanction the post held by the Petitioner in Respondent No.5 school and grant approval to the appointment of the Petitioner to that post and make disbursement of his salary throughout the period of his appointment.

(SURENDRA P. TAVADE, J.)

(S.C. GUPTE, J.)