

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2114 OF 2021

Shri Kiran Deoram Patole & Anr.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. J.D. Khairnar for the Petitioners.

Mr. N.C. Walimbe, AGP for the Respondent Nos. 1 to 3.

CORAM : R.D. DHANUKA &
R.I. CHAGLA, JJ.

DATE : 11 August 2021

ORDER : *(Per R.I. Chagla, J)*

1. Leave is sought by the learned Counsel for the Petitioner to delete the Respondent Nos. 4 and 5. Leave is granted. Amendment shall be carried out within a period of one week from the date of this order.

2. Rule.

3. Learned AGP waives service for Respondent Nos. 1 to 3.

4. Heard finally by consent of parties.

5. By this Petition filed under Article 226 of the Constitution of India, the Petitioner is seeking direction against Respondent No. 2 to decide the representation/s dated 13th September 2019 and 6th November 2020 made by the Petitioners on its own merits, in accordance with law.

6. The Petitioners came to be appointed vide Appointment Orders dated 30th June 2011 and 1st October 2011 as Peon with Jagruti Secondary School (“**the School**”) run by Sarvoday Shikshan Sanstha (“**the Management**”) after following due process of law, on vacant post.

7. Respondent No. 3 by its order dated 19th March 2012 was pleased to grant approval to the appointment of the

Petitioners as Peon from the date of their appointments.

8. The appointment of the Petitioners were made on the posts which became vacant because of the retrenchment of service of Anita Atmaram Dhangar and Arun Tanhaji Kunwar. The Petitioners had thereafter made the said proposal/representations to Respondent No. 2 on 13th September 2019 and 6th November 2020 for approval of the appointment of the Petitioners as Peons in the said Jagruti Secondary School.

9. It is the Petitioners' case that the said Anita Atmaram Dhangar and Arun Tanhaji Kunwar preferred Appeal under Section 9 with the School Tribunal, Nashik challenging their retrenchment before the School Tribunal. The Petitioners were not informed by the Management and/or the said School of these proceedings nor they were made parties in the said Appeal. By an order dated 26th November 2013, the School Tribunal allowed the Appeals directing the reinstatement of the said Anita Atmaram Dhangar and Arun Tanhaji Kunwar with backwages and continuation of their service.

10. The said Management as well as the School preferred Writ Petitions before this Court challenging the said order of the School Tribunal which Writ Petitions including the Applications taken out by the Petitioners therein were dismissed.

11. The Petitioners were thereafter informed by the said school on 26th April 2018 that in view of the oral order passed by Respondent No. 3, their names were not enlisted in the pay-bill from the month of April 2018. The Petitioners' addressed letters to Respondent No. 3 on 2nd May 2018 and 12th June 2018 inquiring as to why the payment of salary had been stayed. Respondent No. 3 responded vide letter dated 1st June 2018 informing the Petitioner that in view of the orders passed by the School Tribunal and this Court, the approval granted to the appointment of the Petitioners' have been cancelled by Respondent No. 3 and their salary had been stayed.

12. It is the case of the Petitioners that they have continued their work with the said school. Their appointments were made by following due process of law and even the

approval of appointments had been given by the Respondent No. 3. The Petitioners have contended that they have worked with the said school from the date of appointment i.e. from the year 2011 and they could not have been retrenched by Respondent No. 3 without giving the Petitioners an opportunity of being heard and in violation of principle of natural justice. The Petitioners have made representations dated 13th September 2019 and 6th November 2020 which till date has not been considered by the Petitioners.

13. Since the Representations dated 13th September 2019 and 6th November 2020 made by the Petitioners have not been considered, the Respondent No. 2 is directed to decide the Petitioners' Representations dated 13th September 2019 and 6th November 2020 within a period of six weeks from today. The decision on the said Representations shall be communicated to the Petitioners within a period of one week from the date of the decision.

14. The Petition is accordingly disposed of in the above terms.

15. Rule is made absolute. There shall be no order as to costs.

[R.I. CHAGLA J.]

[R.D. DHANUKA, J.]