



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

49 WRIT PETITION NO. 14800 OF 2021

Shubhangi d/o Bapusaheb Sonawane @
Shubhangi w/o Somanath Shinde
Age: 35 years, Occu: Service, presently nil,
R/o. At Post Fatyabad,
Tq. Shrirampur, Dist. Ahmednagar.

... Petitioner

Versus

1. The Administor,
Shri. Shivaji Shikshan Prasarak Mandal,
Shri Shivaji Nagar, Tq. Rahuri,
Dist. Ahmednagar.
2. The Head Master,
Keshav Govind Vidyalaya,
At Post. Belapur Kurd,
Tq. Shrirampur, Dist. Ahmednagar.
3. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar.

... Respondents

...
Mr. V. S. Panpatte, Advocate for the Petitioner.
Mr. K. S. Patil, AGP for Respondent No.3 / State.

...

CORAM : KISHORE C. SANT, J.

DATE : 27th November, 2024.

P.C.:

. Heard the learned counsel for petitioner and the learned
AGP for respondent No.3.

2 The short question involved in the writ petition is about the order passed by the learned Presiding Officer, School Tribunal, Solapur dated 27th April, 2018, where the appeal of the present petitioner came to be dismissed. The similarly situated employees of the same Management had also approached the School Tribunal. Those employees were also appointed on the same date on which the present petitioner was appointed. The services of the petitioner and other employees came to be terminated only on the ground of non-approval by respondent No.3. The appeals, therefore, also came to be dismissed mainly on the ground that there is no approval granted by the Education Officer and non-compliance of Section 5.

3 This Court by order dated 7th January, 2022, itself recorded that the petitioner had placed reliance on the common judgment delivered by this Court in a group of writ petitions involving identical facts and issues. All those writ petitions were allowed by judgment dated 12th August, 2021. This Court further directed the respondents to take instructions as to why the similar benefit is not conferred upon the present petitioner.

4 The parties today have produced a copy of judgment dated 12th August, 2021 passed in Writ Petition No.12811 of 2018 and

the companion writ petitions. This Court in paragraph No.12 has observed as under:-

“12. The petitioners have, thus, made out a case that the institution had twice requested the Education Officer to permit it to fill up the vacant posts. The Education Officer appears to have not responded to the communication dated 5/6/2013 and 27/5/2014. The institution was therefore justified in going ahead with the recruitment process ostensibly in the interest of students. The petitioners shall not suffer for inaction on the part of the Education Officer. It is true that, vide communication dated 5/1/2015, the Education Officer had asked the institution to cancel the entire recruitment process. The record, however, indicates that, in January 2015 itself a body of Administrator was appointed for managing the affairs of the sugar factory and necessarily the institution as well. The petitioners, thus, continued to serve until their services, abruptly came to be terminated for the reason of non-approval by the Education Officer to their appointment. In my view, therefore their services were not liable to be terminated merely on the ground of want of approval to their appointments. The petitioners are, therefore, required to be reinstated on the posts of Shikshan Sevak until they complete their tenure as Shikshan Sevak for a period of three years vide their appointment orders dated 8/12/2014. Post completion of their tenure as Shikshan Sevak, they may be absorbed, if they are found to be fit and fulfilling all the mandatory requirements for appointments. The Education Officer – respondent No.3 or the concerned authority shall consider the proposals for approval to the appointments of the

petitioners within a period of six months from the date of receipt thereof. The Education Officer shall not refuse to grant the approval on the ground of want of prior permission for publication of advertisement for filling up the vacant posts. The Education Officer would decide such proposal on its own merits. The petitioners were appointed on a fixed salary of Rs.8000/- per month.”

5 The further judgment relied upon by the learned counsel for the petitioner is dated 2nd December, 2021 passed in Writ Petition No.10834 of 2018 (*Shri Ketan S/o Kishor Jadhav Vs. The State of Maharashtra and others*). This Court in the said judgment in paragraph 18 has observed as below:-

“18. While rejecting the appeals filed by the petitioners, the School Tribunal has failed to take into consideration the aforestated settled legal position. The Tribunal has erred in rejecting the appeals solely on the ground that the prior permission of the Education Officer and the Deputy Director of Education was not obtained before issuing the advertisement and filling up the posts. The Tribunal has ignored the representations forwarded by the Management to the Education Officer and the Deputy Director of Education and waiting for their response for more than one year and 10 months, the Management had also forwarded the representations to the Social Welfare Department as well as the Employment Exchange calling from them the names of the eligible candidates before issuing advertisement. In these circumstances, the Management was justified, so as to

protect the interest of the students, to initiate and complete the process of filling up the posts by appointing the petitioners. It is not in dispute that the posts which are filled up by the Management were permanent clear vacant posts which were filled after following due procedure. The Management has also followed the reservation while filling up the said posts. These important aspects are ignored by the Tribunal while rejecting the appeals of the petitioners, hence the impugned order is vitiated and cannot be sustained.”

6 By observing this, the writ petitions came to be allowed. The termination orders came to be set aside directing reinstatement of the petitioners therein as Shikshan Sevaks. The Management was directed to forward the proposals for their approval within a period of two months to the Education Officer. The Education Officer was further directed to grant approval to the petitioners' appointment and to allow grant of aid to the school for payment of honorarium to the petitioners therein.

7 The learned counsel for the petitioner also relied upon some of the orders passed by the Education Officer where similar issue was involved. These orders are dated 29th May, 2023 issued in favour of the employees therein. He submits that the issue involved in the present petition is identical to those cases.

8 Considering the above, this Court finds that the case is made out to allow the writ petition. Hence, the writ petition is allowed in terms of prayer clauses (C) and (D).

9 The exercise be done as expeditiously as possible.

[KISHORE C. SANT, J.]

nga