

AGK

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

WRIT PETITION NO.419 OF 2024

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Sachin Krishna Jadhav

... Petitioner

V/s.

The President, Apang Punarvasan
Sanstha & Ors.

... Respondents

Mr. Padmanabh D. Pise with Ms. Sejal A. Hariyan i/by
P. Padmanabh Associates for the petitioner.

Mr. Ashutosh Kulkarni i/by Mr. Akshay Kulkarni for
respondent Nos.1 & 2.

CORAM : AMIT BORKAR, J.

DATED : MARCH 7, 2024

P.C.:

1. Challenge in this writ petition is to the order dated 30 January 2024 passed by respondent No.5 confirming order dated 17 March 2023 passed by respondent No.4 on the ground that respondent No.4 had no power to decide appeal against termination of petitioner's service.

2. The petitioner was appointed as Caretaker in respondent No.1/School on 18 December 2002. Respondent No.3 granted approval to his appointment. On 16 October 2017, respondent No.1 issued show-cause notice to the petitioner as to why his services should not be terminated. The petitioner on 21 October 2017 filed his reply. On 2 November 2017 respondent No.1 terminated petitioner's services.

3. Aggrieved thereby, petitioner filed Appeal No.18 of 2019 before respondent No.4. Respondent No.4 by the impugned order dated 17 March 2023 transferred the appeal to the District Social Welfare Officer mainly on the ground that as per Government Resolution dated 18 August 2018 in relation to the Maharashtra Handicapped Special School and Training Centre Code, 2018 it is District Social Welfare Officer who is conferred with power of granting administrative approval to Class-IV employees.

4. On perusal of the order, it appears that the grievance of the petitioner was in relation to termination of his services. Based on the 2018 Code, respondent No.4 is the authority to consider challenge to the order of termination of the employees governed by the 2018 Code. The issue raised before respondent No.4 was not in relation to grant or refusal of administrative approval but it was in relation to the termination of service. Therefore, respondent No.4 ought to have decided the appeal on merits.

5. It needs to be noted that the petitioner on wrong advice had filed appeal challenging order of respondent No.4. However, such appeal was not maintainable. Hence, the order passed by the Appellate Authority is of no consequence. Hence, following order:

- a) Impugned order dated 17 March 2023 is quashed and set aside;
- b) Respondent No.4 shall decide petitioner's appeal afresh on merits after giving opportunity of hearing to both sides;
- c) Parties shall appear before respondent No.4 on 18 March 2024;

- d) Considering the fact that the petitioner filed appeal in 2017, respondent No.4 shall decide the appeal within three months from the date of appearance of parties.
6. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)