
(1999) 08 BOM CK 0012
In the Bombay High Court
Case No : W. P. No. 3006 of 1998

Anil Barbude and another	Vs	APPELLANT
State of Maharashtra and others		RESPONDENT

Date of Decision : 27-08-1999

Acts Referred:

Citation : (2000) 1 BomCR 416 : (1999) 3 MhLj 508

Hon'ble Judges : D. D. Sinha, J;B. N. Srikrishna, J

Bench : Division Bench

Advocate : P. B. Patil, for the Appellant; S. J. Jichkar, A.G.P., for the Respondent

Final Decision : Allowed

Judgement

B. N. Srikrishna, J.—Rule returnable forthwith to respondents Nos. 1 and 4 who are the only parties found to be heard to resolve the grievance in this writ petition. Respondents 2 and 3 are mere formal parties and hence no service on them is necessary.

2. The petitioners passed H.S.S.C. Examination from Nagpur Divisional Board held sometime in the months of March 1991 and March 1989 respectively. On 16-7-1991, the petitioners joined the Two years" Diploma in Teaching (Dip.T.) Course offered by Saugar (M.P.) University and passed the same. The first petitioner passed Dip.T. on 30-4-1993 and the second petitioner passed it on 30-4-1994. On 31-5-1993, the said Dip. T. Course offered by Saugar (M.P.) University was de-recognized by the Government of Maharashtra. On 27th July, 1997, the petitioners were appointed as Assistant Teachers in the respondent No. 2 school and joined the respective posts on 1-8-1997. A proposal for grant of approval to the appointment of the" petitioners was submitted by the respondent No. 2 school to the fourth respondent sometime in the month of October 1997. On 5th August, 1998, the fourth respondent refused to grant approval to the appointment of the petitioners by forwarding reasons as per the Government decision dated 22-4-1997 holding that the petitioners are untrained teachers. A

communication referred to by the fourth respondent is the communication dated 22-4-1997 from the State Government which prescribes that the candidates who have passed Diploma in Teaching of Saugar University may be appointed as untrained teachers, but subject to the condition laid down in the said letter. On 5-9-1998, the petitioners were served with the notices of termination dated 1-9-1998 by the third respondent informing them inter alia that as the fourth respondent had refused to approve of their appointment, their services were being terminated. The representations made on 8-9-1998 and 15-9-1998 against the termination of services produced no result.

3. In our view, this question is no longer res Integra. It has already been considered in the judgment dated 12th August, 1997 in Writ Petition No. 1178 of 1997 (Per Sirpurkar and Marlapalle, JJ.) and judgment dated 17th March, 1997 in Writ Petition No. 612 of 1997 (Per Ashok Agarwal and A. Y. Sakhare, JJ.). These judgments have followed the ratio laid down by the Supreme Court in Suresh Pal and Others Vs. State of Haryana and Others, . The Supreme court in its judgment has clearly indicated that when the petitioner joined the course, if the course was recognised by the State Government and that was the reason why the petitioners joined the course, it would be unjust to tell the petitioners at a future point of time that though when the petitioners joined the course, it was recognized, yet they cannot be given the benefit of such recognition and the certificates obtained by them would be futile because during the pendency of the course, it was de-recognized by the State Government. We are in respectful agreement with the judgment of the Supreme Court; the petitioners cannot now be told that the certificates obtained by them are valueless. The decision of the State Government to derecognise cannot be made applicable to the petitioners because they were already half way towards the two years' certificate course in Education of the Saugar University, which was very much recognised when the petitioners joined the course. In the circumstances, the writ petition is allowed. Rule is made absolute in terms of prayer-clauses (a), (c) and (d). No order as to costs.