HIGH COURT OF JUDICATURE AT BOMBAY

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.6379 OF 2018

Chandraharash Sarangdhar Thoriat,
Aged about 39 years, Occ. Service,
R/o Tandall (Khurd), Post Tandall (Bj),
Tq.Patur, Ditrict Akola. ... **PETITIONER**

Versus

1. State of Maharashtra,
   Through its Secretary,
   Department of Education and Sports,
   Mantralaya, Mumbai.

2. Deputy Director of Education,
   Amravati Division, Amravati.

3. Education Officer (Secondary)
   Zilla Parishad, Akola.

4. Swami Vivekanand Shikshan Prasarak Sanstha,
   through its President Zarandi,
   Tq,: Patur, District Akola.

5. Priyadarshini Indira Gandhi
   Madhyamik Vidyalaya,
   through its Headmaster Patur,
   Tq. : Patur, District Akola. … **RESPONDENTS**

Shri A.R. Deshpande, Advocate for the petitioner.
Ms. K.R.Deshpande, AGP for respondent nos.1 to 3.

CORAM : SUNIL B. SHUKRE AND
MILIND N. JADHAV, JJ.
DATE : 26.08.2019.

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ORAL JUDGMENT : (**PER SUNIL B. SHUKRE, J.**)

Heard. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.

2. It is seen from the impugned order that the only reason for which the approval permanently granted to the appointment of the petitioner has been withdrawn is that at the time of his appointment as Junior Clerk, the petitioner did not possess requisite qualifications regarding clearance of Marathi and English typing test with respective speeds of 30 and 40 words per minute. But, the documents placed on record, about which no dispute has been raised, show that the appointment of the petitioner made way back in the year 2014 was after following proper procedure and obtaining prior permission from the Education Officer. These documents further show that the petitioner's appointment was initially approved for a period of three years, vide order dated 13.8.2014, which was subsequently cancelled and thereafter, when the matter reached the doors of the High Court, the cancellation order dated 7.7.2017 was also quashed and set aside and thereafter, permanent approval to the appointment of the petitioner was granted on 25.1.2018. The facts of the case also show that during interregnum,

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in the year 2017-18, the petitioner acquired the aforesaid stated qualification about which also there is no dispute.

3. Thus, the petitioner, who entered into the service through proper procedure, who got due approvals from the Education Officer for his appointment and who has rendered continuously the service as Junior Clerk for all the years is now being sent out of the service by the Education Officer. Ultimately, the objection that was there, has now been removed and, therefore, we do not think that now, the petitioner could be shown the exit door by the Education Officer. We find that by the own actions of the Education Officer, an irreversible right to be in the employment has been created in favour of the petitioner and now, it cannot be taken away through any action, which is not in consonance with the principle of rule of law.

4. In the result, we are of the view that this petition deserves to be allowed and is allowed accordingly. The impugned order dated 30.6.2018 is hereby quashed and set aside. The unpaid salary with effect from 1st July 2018 till date be paid to the petitioner according to his entitlement within eight weeks from the date of this order.

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5. Rule is made absolute in the aforesaid terms. No order as to costs.

JUDGE **JUDGE**

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