

SUPREME COURT OF INDIA

Lokshikshan Prasarak Mandal

Vs.

Rajendrakumar Ajabrao Mahalle

(K Ramaswamy and D Wadhwa JJ.)

05.05.1997

ORDER

Leave granted. We have heard counsel on both sides. This appeal by special leave arises from the interim order passed by the High Court of Bombay, Nagpur Bench, made on February 19, 1997 in Writ Petitioner No.3520/95. The respondent was appointed on July 9, 1992 for a period of one year. The appointment order read as under: "Your appointment is purely temporary for a period of one year from 9.7.92 to end of Session, in the leave/deputation/vacancy. After expiry of the above period your service shall stand terminated without any notice."

Subsequently, on appointment was given to the respondent as indicated in the order of the Division Deputy Director of Education (Genl), dated May 19, 1994 sent on May 21, 1995 which reads as under:

"That due to refusal of sanction and provision from the State Government for the year 1993-94, no sanction was granted for any class on grant-in-aid basis. Information to all Heads of Schools should be sent through Deputy Director of Education, Education Officer (Secondary) and Education Inspector, Bombay."

Thus, it could be seen that for the year 1993-94, no appointment came to be made. The respondent filed an appeal in the Tribunal for direction. The Tribunal held that he had been appointed against a permanent vacancy and the Head Master has no authority to pass an order of termination. In the face of the appointment order, such finding recorded by the Tribunal is clearly unwarranted. When a writ petition was filed seeking suspension of the order, the High Court vacated the order of stay made in the impugned order. In the aforesaid facts, the case was clearly for the stay of Tribunal order pending disposal of the writ petition. The appeal is accordingly allowed. The order of the High Court stands set aside. The High Court is requested to dispose of the writ petition as expeditiously as possible. No costs.