

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

Writ Petition No. 2504 of 2015

Dipak s/o. Ramrao Kadam,
Age : 40 years,
Occupation : Service as
Head Master of
Swami Vivekanand Vidyalaya,
Trikoli, Taluka : Omerga,
District : Osmanabad.

.. Petitioner.

versus

1. The State of Maharashtra,
Through its Secretary,
School Education Department,
Mantralaya, Mumbai - 32.
2. The Education Officer (Secondary),
Zilla Parishad, Osmanabad,
District : Osmanabad.
3. Dipakraj s/o. Shrimantrao Kotle,
Age : 44 years,
Occupation : Service as
Assistant Engineer at M.S.E.B.
So called President of
Shri Sai Shikshan Prasarak Mandal,
Thorli-Wadi, Taluka : Omerga,
District : Osmanabad.
4. Shrimantrao s/o. Saibanappa Kotle,
Age : 67 years,
Occupation : Pensioner.
So called Secretary of Shri Sai Shikshan
Prasarak Mandal,
R/o. Thorli-Wadi, Taluka : Omerga,
District : Osmanabad.

5. Shri Sai Shikshan Prasarak Mandal,
Thorli-Wadi, Taluka : Omerga,
District : Osmanabad,
Through its President,
Shri Prakash Baswanna Bhosale,
Age : 44 years,
Occupation : Service,
R/o. Thorli-Wadi,
Taluka : Omerga,
District : Osmanabad. .. Respondents.

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Mr. V.D. Gunale, Advocate, for the petitioner.

*Mrs. S.G. Chincholkar, Assistant Government Pleader,
for respondent nos.1 and 2.*

*Mr. Santosh S. Jadhavar, Advocate, for respondent
nos.3 and 4.*

Mr. S.B. Gastgar, Advocate, for respondent no.5.

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**CORAM : S.S. SHINDE &
A.M. BADAR, JJ.**

DATE : 31ST AUGUST 2015

ORAL JUDGMENT (Per S.S. Shinde, J.) :

1. Heard learned Counsel for respective parties.
2. Rule. Rule made returnable forthwith. By consent of the learned Counsel for the parties, heard finally.

3. This petition is filed with following main prayer :

[C] By writ of certiorari, or any other appropriate writ, order or directions, the impugned communication dated 3-2-2015, issued by the In-charge Education Officer and the communication dated 20-2-2015, issued by respondent No.3, be quashed and/or set aside.

4. The learned Counsel appearing for the petitioner invited our attention to the annexure Exhibit “D” to the petition at page 27 i.e. letter written by the Education Officer (Secondary), Zilla Parishad, Osmanabad, to the Secretary of Shri Sai Shikshan Prasarak Mandal, Thorliwadi [Taluka : Omerga, District : Osmanabad], thereby approving the Enquiry Committee constituted by the so called Management, and submits that there is no any provision wherein the Education Officer (Secondary), Zilla Parishad, Osmanabad, has any role to play.

5. The learned Counsel appearing for respondent nos.3 and 4, relying upon Rule 36 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, submits that, it is true that so far constitution of Enquiry Committee is concerned, or approval to such constitution of Committee is concerned, Education Officer has no role to play.

6. In that view of the matter, the petition deserves to be allowed

and the impugned communication dated 3rd February 2015, will have to be set aside.

7. In the result, the petition is allowed.

The impugned communication at Exhibit “D” at page 27 of the petition, dated 3rd February 2015, stands quashed and set aside.

8. Rule is made absolute in the above terms. There shall be no order as to costs.

(A.M. BADAR)
JUDGE

(S.S. SHINDE)
JUDGE

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