

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8100 OF 2014

SURESH JOHN SABLE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. S. S. Jadhavar
AGP for Respondent Nos. 1 and 2 : Mr. K. G. Patil
Advocate for Respondent No. 3 : S. T. Shelke

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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 10th JUNE, 2015

PER COURT :-

1. Mr. Jadhavar, the learned counsel for the petitioner submits that respondent Nos. 2 and 3 need to be directed to reinstate/appoint the petitioner as a Headmaster. The petitioner was promoted as Headmaster. Even the consequent order dated 01.01.2006 reducing the petitioner to the post of Assistant Teacher was withdrawn. The learned counsel submits that the petitioner was discharging his duties as a Headmaster. The dispute, in fact, was between the petitioner and one Mr. Kamble. Mr. Kamble retired from service on attaining the age of superannuation. As such, now the dispute does not survive and there is no impediment for respondent Nos. 2 and 3 to appoint the petitioner on the post of Headmaster.

2. Mr. Shelke and Mr. Dharurkar, the learned counsel for respective respondents submit that this Court, in Writ Petition No. 404 of 2009, vide order dated 13.08.2009, has specifically observed that till the dispute in the management is decided or settled, the authorities of the Education Department shall not recognize either respondent No. 4 or respondent no. 5 as Headmaster or In-charge Headmaster and shall treat them as Assistant Teacher. The said order is still in force. Mr. Jadhavar, the learned counsel submits that the said order was passed in view of the fact that directions were given to decide the dispute before the Assistant Charity Commissioner within six months. In view of changed circumstances, this Court can consider the present matter.

3. The order dated 13.08.2009 in writ petition No. 404 of 2009 with connected writ petition, is still in force. Unless the said order is modified or the said order is complied, no contrary orders can be passed. This Court, vide the said order, has observed as under:-

“....It is further made clear that till the decision of the dispute in the management and in the event if the respondents Nos. 4 and 5 decide to settle their dispute before an appropriate forum, till decision of such dispute, the authorities of the Education Department shall not recognize either respondent No.4 or respondent No.5 as Head Master or Incharge

Head Master and shall treat them as Assistant Teachers. It is further made clear that both these respondents till the decision of the dispute as aforesaid between them shall be entitled only to salary as an Assistant Teacher."

4. In the light of the above, the case put forth by the petitioner cannot be considered in the present writ petition. However, the petitioner is at liberty to take steps in respect of earlier order passed, as is permissible in law. Writ petition is Disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

rlj/-