

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

WRIT PETITION NO.8928 OF 2013

1. Sanju s/o Sitaram Kothimbire,
Age 42 years, Occu. Service,
R/o Salvandevi Road, Shrigonda,
Taluka Shrigonda,
District Ahmednagar
 2. Bhimrao s/o Baburao Anandkar,
Age 41 years, Occu. Service,
R/o Anandkar Mala, Shrigonda,
Taluka Shrigonda,
District Ahmednagar
- .. Petitioners

Versus

1. The State of Maharashtra,
through the Secretary for School
Education Department,
Mantralaya, Mumbai
 2. The Deputy Director of Education,
Pune Division, Pune
 3. The Education Officer (Secondary),
Zila Parishad, Ahmednagar,
District Ahmednagar
 4. Ahmednagar District Backward Class
(O.B.C., Minority Teaching and non
Teaching Employees Union),
Through its Trustee,
Ravindra Bhivaji Patekar,
Age 49 years, Occu. Service,
R/o Ajeet Nagar, Nagar-Kalyan road,
Ahmednagar, Dist. Ahmednagar
 5. Dnyandeep Gramin Vikas Sanstha,
Kashti, Taluka Shrigonda,
District Ahmednagar,
through its President
- .. Respondents

Mr V.D.Hon, Senior Counsel i/b Mr A.V.Hon, Advocate for petitioners
Mrs B.B.Gunjel, A.G.P. for respondents No.1 to 3
Mr L.V.Sangeet, Advocate for respondent No.4
Mr A.D.Shinde, Advocate for respondent No.5

CORAM : N.W. SAMBRE, J.**DATE : 24th February 2015****PER COURT**

1. As a consequence of order passed on 11th February 2013 in Writ Petition No.5934 of 2012, the Deputy Director of Education, Pune Division, Pune passed an order against the present petitioners declaring appointments of the petitioners as illegal and directed removal of the petitioners from the said post.

2. Mr Hon, learned Senior Counsel for the petitioners submits that the said order is passed without hearing the petitioners and there is violation of principles of natural justice.

3. Learned Counsel Mr Sangeet for respondent No.4, who is an objector - petitioner to the Writ Petition No.5934 of 2012 submits that the respondent - Management has taken recourse to illegal means while filling up the posts of the Head Master. According to him, once there is an adjudication by the competent authority, as directed by this Court by order dated 11th February 2013, the opportunity of hearing was rightly not extended by the respondent No.2 - Deputy Director of Education to the petitioners. With an intention to support his contention, he has invited my attention to the order dated 11th February 2013 passed by this Court in above said writ petition.

4. Learned Counsel for respondent No.4 further urged that the Management and the petitioners are hand-in-glove and are acting with

an intention to suppress the claim of the candidates from the reserved category for the post of Head Master in the schools run and administered by the respondent – Management.

5. Learned Counsel Mr Shinde for the Management submits that the candidates from the reserved category though were offered opportunity on the post of Head Master at the relevant time, they refused to accept the same, as the school was not getting 100% grant. It is only after the school started getting 100% grant, the employees from the reserved category who are entitled for the post started making grievance before granting promotion on the post of Head Master. He submits that since the posts are already filled in after following due process prescribed for filling up the post of Head Master, it is not open for respondent No.4 to object to the filling of the posts of Head Master. He further urged that the aggrieved candidates are not before the Court.

6. Having regard to the rival contentions of the parties and having gone through the order dated 11th February 2013 passed in Writ Petition No.5934 of 2012, it is noticed that this Court, while disposing of the said writ petition has observed that the respondent No.4 to tender a detailed representation to the respondent – Deputy Director, who was directed to extend opportunity of hearing to respondent No.4 – petitioner in the Writ Petition No.5934/2012 and issue necessary directions expeditiously, This Court has not excluded an opportunity of hearing to the present petitioners who are aggrieved candidates

because of passing of the order impugned in this petition. At the time of allowing the representation preferred by the respondent No.4, i.e. passing of the order impugned unseating the petitioners from the post of Head Master, least that was expected of the Deputy Director was to hear such candidates and pass appropriate order.

7. The position and facts as regards denial of opportunity of hearing to the petitioners is not disputed though respondent No.4 submits that such opportunity is not required to be given to them.

8. Once the petitioners are occupying the post of Head Master and are to be unseated from the said post, the said order results into adverse civil consequence qua rights of the petitioners. The opportunity of hearing or violation of principles of natural justice is to be read in Article 14 of the Constitution and same, in my opinion, squarely applies to the present case.

9. In that view of the matter, the order passed by the Deputy Director of Education, Pune Division, Pune which is impugned in the present petition i.e. communication dated 3rd October 2013 and order accompanying the same, as such is not sustainable and the same is hereby quashed and set aside. The matter is remanded back to the said authority with direction to hear all the concerned parties, including that of respondent No.4 and the prospective claimants to the said post from reserved category, so also to the petitioners and respondent - Management.

10. Such exercise be completed within a period of four months from today.

11. Writ Petition stands allowed in above terms with no order as to costs.

(N.W. SAMBRE, J.)

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