

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9497 OF 2013

SURYAKANT DNYANDEO PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. A. G. Talhar, Advocate for petitioner
Mr. K. M. Suryawanshi, AGP for respondent No. 1
Mr. B. R. Kedar, Advocate for respondent No. 3
Mr. S. R. Barlinge, Advocate for respondent Nos. 4 and 5

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

DATED : 22nd JUNE, 2015

PER COURT :

1. Mr. Talhar, the learned counsel for the petitioner states that the present respondent no. 5 had filed an appeal before the School Tribunal challenging her termination. The said appeal is allowed, however, no orders are passed against the petitioner in the said appeal. The management has filed a writ petition challenging the order of the School Tribunal. Stay is granted to the extent of back-wages. According to the learned counsel, the approval has been wrongly granted by the Education Officer. The Education Officer has wrongly considered the date of appointment of the present respondent No. 5. According to the learned counsel, the present petitioner is not bound by the order passed by the School Tribunal.

2. Mr. Kedar, the learned counsel for respondent No. 3 submits that the management is, in fact, supporting the case of the petitioner. The management has challenged the order of the School Tribunal and the said writ petition is pending before this Court.

3. Mr. Barlinge, the learned counsel for respondent nos. 4 and 5 submits that though the writ petition has been filed by the management against the order of the School Tribunal, no stay has been granted to the order of the School Tribunal directing the management to reinstate the present respondent no. 5 as Head Mistress. The learned Single Judge, while admitting the present writ petition has specifically observed that the reinstatement awarded by the Tribunal is not stayed.

4. We have considered the submissions canvassed by the learned counsel for respective parties. The approval granted by the Education Officer, naturally, is pursuant to the orders passed by the School Tribunal. The said order is also not stayed.

5. We have gone through the order of the School Tribunal passed in appeal filed by respondent no. 5. Clause 3 of the operative order of the School Tribunal reads as under:

“3. The respondent management is directed to reinstate the appellant to the post of Head mistress and pay her full back wages from the date of filling of this appeal till her reinstatement.”

6. This Court, in writ petition, had observed that reinstatement awarded by the School Tribunal is not stayed and the stay is granted to the back-wages on condition that the management deposits 50% of the back-wages. It appears that the management had approached the Apex Court. The said Special Leave Petition is also dismissed.

7. The writ petition filed by the management, against the order of the School Tribunal directing the management to appoint respondent no. 5 herein, as Head Mistress, is pending. The order to the extent of reinstatement is not stayed by the Court. The order of the School Tribunal to that extent is still in force. Naturally, the Education Officer could not have refused to grant approval to the appointment of the present respondent no. 5.

8. The petitioner is aggrieved by the approval granted. The petitioner is a party to the appeal filed by respondent no. 5 before the School Tribunal and naturally would be a party in the writ petition filed by the management against the said order. The petitioner has every right to put forth his case in the pending writ petition.

9. Depending upon the judgment delivered by this Court in writ petition bearing no. 3226 of 2007, the petitioner may agitate his rights with regard to his claims, so also about the impugned approval in favour of respondent no. 5.

10. The writ petition accordingly stands disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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