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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 7482 OF 2015

Chandmal Tarachand Bora
College Teachers' Association

...Petitioner

Vs.

State of Maharashtra and Ors.

...Respondents

Mr. Sumit V. Khaire for Petitioner
Mr. Sachindra B. Shetye for Respondent No.4

CORAM : V. M. KANADE &
B.P COLABAWALLA, J.J.

DATE : JULY 31, 2015

P.C. :

1. The Petitioner is an Association of Teachers and its grievance is that despite the directions being given by this Court on two occasions, the Election Commission has asked the teachers of C.T. Bora College, situated at Taluka Shirur, Dist. Pune (for the sake of convenience, hereinafter referred to as "the said College")to work as Election Officers and In-charge of Election Duty in the elections which is scheduled to be held on 4th August, 2015. It is submitted that they have been asked to work on 3rd August and 4th August, 2015, which are working days. Further grievance of the Petitioner is that all the teachers of the said College have been asked to do this election work

and as a result, the said College will remain closed on 3rd August and 4th August, 2015 which are working days.

2. Our attention is invited to the judgment of the Apex Court in the case of **Election Commission of India Vs. St. Mary School 2008 (2) SCC 390** and also to the decision of the Division Bench of this Court in the case of **Dr.Shamrao Pandurang Lawande and others Vs. The State of Maharashtra in Writ Petition No.1011 of 2012 along with Writ Petition Nos. 1021 of 2012 and 1026 of 2012.** It is submitted that the Apex Court in paragraph 33 of the judgment has specifically observed that the Election Commission has assured the Apex Court that as far as possible teachers would be put on electoral roll revision works on holidays, non-teaching days and non-teaching hours; whereas non-teaching staff be put on duty at any time. It is submitted that by relying on the observation made by the Apex Court in the case of **Election Commission of India vs. St. Mary School (supra.)**, the Division Bench of this Court has taken a similar decision. It is submitted that in spite of that, the Election Commission again allotted the election duty to the teachers during the working days and working hours.

4. On the other hand, Shri Shetye, learned counsel appearing on behalf of the Election Commission, after taking instructions, submits that as far as possible 50% of the teaching staff will be relieved from doing this election work on 3rd August and 4th August, 2015. He submits that however, since at the last moment, it would not be possible to appoint other persons for the said work, on this occasion they may be permitted to deploy 50% teaching staff on the said dates.

5. Taking into consideration the statement made by Shri Shetye on the instructions received from the Election Commission, we are of the view that since elections are to be held on 3rd August and 4th August, 2015, a direction at this stage cannot be given to the Election Commission to appoint some other persons for the purpose of doing the election duty. It is, however, made clear that hereinafter the directions given by the Apex Court in the case of **Election Commission of India vs. St. Mary School (supra.)** be scrupulously followed.

6. We are of the view that the Election Commission of India in consultation of the State Government may appoint people such as retired teachers, retired government servants on contract basis for the purpose of doing the election duty or the Election Commission may prepare a list of citizens having good track record, well in advance so that before the elections, the requisite number of persons can be appointed on the contract basis from the said list. The Election Commission may also consider about appointment of permanent staff for that purpose so that during the time of election, they can work for the Government subject to financial sanction being given by the Government.

7. The Election Commission and the State Government may also consider for appointment of the staff for the purpose of doing the election work but under no circumstances, teachers / lecturers / professors shall be asked to do the election duty on working days as directed by the Apex Court in the said case.

8. With these directions, the writ petition is disposed of. We hope that the members of the Association will co-operate with the Election Commission at this moment for the election work and to ensure that the election process will be completed without any hindrance.

Parties to act on an authenticated copy of this order.

[B.P COLABAWALLA, J.]

[V. M. KANADE, J.]

Vaishali Tikam