

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1140 OF 2015

[Devendra Dhekuldas Gedam .vs. The Deputy Director of Education, Nagpur Division, Nagpur and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.R. Ingole, counsel for the petitioner,
Shri D.B. Patel, AGP for the respondent no.1.
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CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATED : SEPTEMBER 08, 2015.

By this petition, the petitioner challenges the communication of the respondent-management, dated 10.2.2015 asking the petitioner to nominate his nominee on the reconstituted inquiry committee.

According to the petitioner, the respondent no.2 does not have jurisdiction to reconstitute the inquiry committee and ask the petitioner to submit the name of his nominee on the reconstituted inquiry committee. It is stated that the impugned communication is contrary to the provisions of Rule 37 (6) of the Maharashtra Employees Private School (Conditions of Service) Rules of 1981.

The petition is premature. The petitioner cannot be permitted to seek indulgence of this court in exercise of the writ jurisdiction during the pendency of the inquiry. If the inquiry committee is not properly constituted or if any provisions of the Rules of 1981 are violated, while conducting the inquiry, the petitioner is free to raise the challenge to the same, after the culmination of the inquiry, if any, adverse order is passed against the petitioner. The petitioner can as well point out the flaws in the inquiry during the inquiry and record his objections to the same. However, it would not be permissible to the petitioner to approach this court at every stage of the

inquiry on the ground that particular procedure has not been properly followed. The adverse action, if any, against the petitioner could be challenged by the petitioner and in the said challenge, the grounds raised in the petition could be raised. It is rightly pointed out to this court by the learned Assistant Government Pleader that during the pendency of this inquiry, the petitioner had filed Writ Petition No.2529/2014 and this court had disposed of the writ petition, after observing that the points raised in the said petition cannot be considered during the pendency of the inquiry. This court had reserved opportunity in favour of the petitioner to agitate the points raised in the petition before the appropriate forum at an appropriate stage. Despite of the dismissal of the previous petition, the petitioner has approached this court seeking a stay to the inquiry on the ground that the procedure is not properly followed. In our view, the conduct of the petitioner is not such, that would entitle the petitioner to the relief under Article 226 of the Constitution of India, specially when the previous petition bearing Writ Petition No.2529/2014 was disposed of on the ground that the inquiry could not be stalled and the interference during the pendency of the inquiry was not possible.

In the circumstances of the case, we dismiss the writ petition, with costs.

JUDGE

JUDGE