

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

WRIT PETITION NO. 3501 OF 2013.

Shri Ramdas Dnyandeo Mahske .vs. The State of Maharashtra & others

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

Court's or Judge's orders

Dr. Anjan De, Advocate for petitioner,
Mr. A.S. Fulzele, Additional Government Pleader for respondent nos. 1
to 3,
Mr. H.A. Deshpande, Advocate for respondent nos. 4 & 5.

CORAM : B.P. DHARMADHIKARI & S.B. SHUKRE, JJ.

DATED : MARCH 30, 2015.

Heard.

By this petition, the petitioner seeks writ to quash and set aside the order dated 9.7.2012 by which the Deputy Director of Education, i.e. respondent no.2 has refused to absorb petitioner in school which has started at Jambhora. The petitioner claims that he worked in academic year 2008-09 in school at Varvand, Tq. Mehkar, district Buldana and that school though initially discontinued was later on transferred and restarted at Mouza Jambhora, Tq. Deulgaon Raja, district Buldana. Submission is all other employees have been absorbed in that school and exception has been made in case of petitioner. Apart from this, Shri De, learned Counsel for the petitioner, has invited our attention to order dated 11.7.2014 passed by very same authority on report of one Gajanan Lode. It is submitted that in the said report the schools not in existence have been used to mislead Government and by fabricating documents order of its transfer to village

Jambhora has been obtained. Shri De contends that thus the school itself could not have been started at Jambhora.

Mr. H.A. Deshpande, learned Advocate for respondent nos. 4 & 5 and also Mr. A.S. Fulzele, Additional Government Pleader for respondent nos. 1 to 3, are opposing the petition. They submit that challenge to restarting of school at Jambhora is not open in present matter. It is further pointed out that petitioner is acting in collusion with erstwhile rival group in management of earlier society and, therefore, has approached this Court belatedly.

In the light of these arguments, we have perused the papers. The petitioner claims that he was working in school at Varvand in academic year 2008-09. Transfer of school at Jambhora is approved on 28.5.2009, i.e. in immediately next academic year 2009-10. The petitioner has not pointed out that he made any efforts to join at Jambhora. Question was, therefore, what was the cause of action which prompted him to approach this Court.

First Writ Petition filed by him in this respect is Writ Petition No. 1329/11. This Court has passed orders in that Writ Petition on 16.11.2011 and all disputed questions were placed before the respondent no. 2. Respondent no. 2 has looked into those disputes and passed the impugned order dated 9.7.2012.

Prior to that, there was one more petition, i.e. Writ Petition No. 3872/09. It was filed by six employees and the other employees are parties therein as respondent nos. 6 to 19. Name of present petitioner does not figure anywhere in array of parties. Gajanan Lodhe, whose grievance is looked into by respondent no.2 while submitting the report dated 11.7.2014, mentioned supra, was petitioner no.5 in that petition. Cause of action could have accrued to petitioner had he gone to join at Jambhora and was not permitted. The respondents have

stated that his name did not figure in list of employees of earlier school and as such, there was no occasion for them to ask him to join or to restrain him from joining. The earlier Writ Petition filed by him in the year 2011 was along with the earlier society as petitioner no.1.

The argument that report dated 11.7.2014 shows the fabrication of records to obtain orders of transfer of school from Varvand to Jambhora need to be viewed in this background. If that argument is accepted, it follows that school may not continue at Jambhora at all and may be required to be closed down. Hence, petitioner does not appear to be interested only in joining at Jambhora.

As we find the grievance belated and also no cause of action is shown, no case is made out warranting interference in writ jurisdiction.

The Writ Petition is dismissed. No costs.

J. Judge

Judge