

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

**WRIT PETITION NO. 2093 OF 2014**

(Makarand Narayan Gore & Ors. vs. State of Maharashtra thr. its Secretary, Department of Social Justice and Special Assistance & Ors.)

AND

**WRIT PETITION NO. 3450 OF 2014**

(Chandrashekhar Ganpatrao Nare & Anr. vs. District Social Welfare Officer, Zilla Parishad, Nagpur)

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

Court's or Judge's orders

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**CORAM : B.P. DHARMADHIKARI &  
A.P. BHANGALE, JJ.  
MARCH 10, 2015.**

Heard Shri Patil, learned counsel for the petitioner in Writ Petition No. 2093 of 2014, Shri Gode, learned counsel for the petitioner in Writ Petition No. 3450 of 2014 and Respondent Nos. 4, 5 & 7 in Writ Petition No. 2093 of 2014 and Shri Fulzele, learned Additional GP for respondent Nos. 1, 2 & 6 in Writ Petition No. 2093 of 2014 and for the respondent sole in Writ Petition No. 3450 of 2014.

The order dated 31.10.2013 by which approval given to promotion of Chandrashekhar Nare as Head master of Deaf and Dumb Industrial Institute has been cancelled, is questioned by him and his employer in Writ Petition No. 3450 of 2014. The other teaching staff in the said School has filed Writ Petition No. 2093 of 2014 with a grievance that as Petitioner No. 2 therein viz. Sau. Kamal Waghmare, is the senior-most Teacher, she should be given the post of Head Master.

Shri Patil, learned counsel submits that in the background of finding that Shri Nare is not the senior-most, management has with oblique motive on 09.11.2013 again made him Headmaster by giving additional charge. He also points out the findings in the impugned order. According to him, the impugned order not only finds Shri Nare, not senior but also incompetent.

Shri Gode, learned counsel for Shri Nare and the management submits that the impugned order in fact cancels the approval earlier given to said promotion. The order has been passed without extending an opportunity of hearing to the management or Shri Nare and, therefore, it is bad. He further states that the Teachers who have approached this Court, themselves have produced a seniority list as Annexure 'D' with the petition and in that seniority list also Shri Nare has been shown as the senior-most. He states that there is no challenge to seniority list before this Court or any other authority.

The learned Additional GP, who appears for respondent Nos. 1 to 3 is seeking time to file reply affidavit.

Shri Dhabe, learned counsel appearing for the intervenors adopts the arguments of Shri Patil, learned counsel.

We find that the approval was already given to the promotion of Shri Nare and thereafter it has been

set aside by the impugned order dated 31.10.2013. Within nine days thereafter, the management has again given additional charge to the very same person.

The impugned order makes certain observations which could not have been recorded without giving Shri Nare or the management an opportunity. Holding that Shri Nare is incompetent is stigmatic and, therefore, we find that an opportunity ought to have been given to him. Similarly, seniority list should have been perused and thereafter reasons could have been recorded to demonstrate that Shri Nare is the senior-most. A perusal of seniority list produced as Annexure 'D' with Writ Petition No. 2093 of 2014 shows his name at Sr. No. 1. The name of petitioner No. 2 who claims to be the senior-most is at Sr. No. 5 in that seniority list. Thus, we note that several disputed questions arise. Those questions could not have been decided without giving an opportunity to the petitioners in both the matters.

In this situation, we set aside the order dated 31.10.2013 and place the matter back before the respondent in Writ Petition No. 3450 of 2014. The parties to said writ petition as also representative of the petitioners in Writ Petition No. 2093 of 2014 and representative of intervenors are directed to appear before the said authority on 20.04.2015. The said authority shall consider necessary records maintained by the employer/ management and then take suitable

decision in accordance with law within next two months.

Leaving all rival contentions open and with these directions, we dispose of both these writ petitions. However, in the facts and circumstances of the case, there shall be no order as to costs.

**JUDGE**

**JUDGE**

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