

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

WRIT PETITION NO.2972 OF 2014

[Vivek Gajiram Kadgaye .vs. Education Officer and others]
 with

WRIT PETITION NO.3874 OF 2014

[Shankar Somaji Titarmare .vs. Education Officer and one]
 with

WRIT PETITION NO.4270 OF 2014

[Vishwawyapi Shaikshanik Sanstha, Veltur .vs. The Education Officer and one]

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

Court's or Judge's orders

WP No.2972/2014

Shri Nithin Khamborkar, counsel for the petitioner,
 Ms. T.H. Udeshi, Assistant Government Pleader for the respondent no.1,
 Shri Anand Parchure, counsel for the respondent nos.2 to 4,

WP No.3874/2014

Shri Nithin Khamborkar, counsel for the petitioner,
 Shri A.S. Fulzele, Additional Government Pleader for the respondent no.1,
 Shri Anand Parchure, counsel for the respondent no.2.

WP No.4270/2014

Shri Anand Parchure, counsel for the petitioner,
 Ms. T.H. Udeshi, Assistant Government Pleader for the respondent no.1,
 Shri Nitin Khamborkar, counsel for the respondent nos.2 and 3.

.....

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATED : JUNE 18, 2015.

Heard.

Since the issues involved in these writ petitions are inter-connected and since the writ petitions arise from the orders passed by the education authorities in respect of granting financial and administrative powers to the teachers i.e. the petitioners in Writ Petition Nos.1209/2013 and 3874/2014, they are heard together and are decided by this common order.

Vishwawyapi Shaikshanik Sanstha, which is the petitioner in Writ Petition No.4270/2014, runs a Higher Secondary School at Veltur. Shri Vivek Kadgaye, the petitioner in Writ Petition No.2972/2014 was working as the Head Master in the said school. It is the case of the Sanstha that the services of Shri Vivek Kadgaye were

terminated, after conducting an inquiry and the Education Officer has endorsed the termination. After the services of Shri Vivek Kadgaye were terminated, the Education Officer recognized Shri Vivek Kadgaye as Ad hoc Head Master and administrative and financial powers were given to him by the orders dated 4.8.2014, 27.8.2014 and 9.10.2014. The orders are challenged by the Sanstha in Writ Petition No.4270/2014. The Sanstha claims to have handed over the administrative and financial powers to Shri Shankar Titarmare, who is the petitioner in Writ Petition No.3874/2014. According to the Sanstha, Shri Shankar Titarmare refused to accept the charge and, therefore, he was suspended.

Shri Shankar Titarmare filed Writ Petition No.3874/2014 seeking appropriate relief, as according to him, he was ready to accept the charge of the Head Master and exercise the financial and administrative powers. In the meanwhile, Shri Vivek Kadgaye also filed Writ Petition No.2972/2014 against the order of the Education Officer, dated 3.4.2014 granting administrative and financial powers to Shri S.B. Dharne, who was allegedly junior to Shri Shankar Titarmare and Shri Vivek Kadgaye. It is not in dispute that in view of the interim order passed in the writ petition filed by Shri Shankar Titarmare bearing Writ Petition No.3874/2014, presently Shri Shankar Titarmare is holding the charge of the Head Master and exercising the financial and administrative powers.

Since it is the case of the management that the services of Shri Vivek Kadgaye are already terminated, he would not be entitled to make any claim in regard to the grant of administrative and financial powers. It would not be possible for this court to consider that issue in exercise of the writ jurisdiction. It would be necessary for Shri Vivek Kadgaye to challenge the order of termination, if he is aggrieved by the same before the Tribunal. Also, as admittedly Shri Vivek Kadgaye was holding the post of the Head Master and his services are said to have been terminated, it would be necessary for the management as well as the Education Officer to ensure that a regular Head Master is appointed in the Higher Secondary School run by the Sanstha at Veltur. There is no right in an employee of the school to seek the grant of

administrative and financial powers, as of a right. The powers are granted as an interim arrangement till the regular Head Master is appointed. At least, such a right is not shown to us, by any of the parties. In this background, all the writ petitions could be conveniently disposed of by directing the management and the Education Officer to ensure that a regular Head Master is appointed within a time frame.

At this stage, Shri Parchure, the learned counsel for the Sanstha, states that within a period of four weeks, the management would appoint a regular Head Master, in accordance with law and send the proposal to the Education Officer for grant of approval to his appointment. The learned counsel fairly states that in view of this order directing appointment of a regular Head Master, the management would not act upon the suspension order of Shri Shankar Titarmare and he would continue to exercise the financial and administrative powers till the regular Head Master is appointed.

By accepting the statement made by the learned counsel for the Sanstha, we dispose of the writ petitions, with a direction to the Education Officer to consider the proposal that would be submitted by the management, as early as possible and decide the same within a period of two months from the date of receipt of the proposal. Order accordingly. No costs.

JUDGE

JUDGE