

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.3699 OF 2013**Abdul Naim S/o Abdul Rauf and another Vs. The State of Maharashtra and others.**

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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Mr.Hemant Surve, advocate for the petitioners.
 Mrs.M.A.Deshpande, Addl. Government Pleader for the State.
 Mr.Kulkarni S.S.for Respondent Nos.5 and 6.
 Mr.R.J.Godbole, advocate for Respondent No.7.

**CORAM : S.V.GANGAPURWALA AND
 K.L.WADANE, JJ.**

Date : 05.12.2016.

PER COURT :

1. Heard.
2. The petitioners have approached this Court being aggrieved by the decision taken by the Deputy Director of Education on the complaint filed by the present petitioners.
3. Mr.Surve, learned counsel for the petitioners strenuously contends that the petitioners had made specific allegations with regard to the appointments of teachers so also of the non-teaching staff. The instances were given. As no decision was being taken, the petitioners had approached this Court by filing

W.P.No.385/2011. This Court under order dated 8.10.2012, directed the Deputy Director of Education to take decision on the representation filed by the petitioners on 5.1.2010 after extending opportunity of hearing to the petitioners as well as the concerned Respondents. The learned counsel submits that if decision of the Deputy Director of Education is perused, the Deputy Director of Education has only recorded the contention of the parties and without assigning any reasons has disposed of the application of the petitioners. The learned counsel submits that the order of the Deputy Director of Education is not complying the orders of this Court in its true spirit passed in W.P.No.385/2011. When the petitioners had given specific instances about the illegal appointments of the teachers and also some members of the non-teaching staff, it was expected of the Deputy Director of Education to give finding on the allegations made by the petitioners. Serious allegations were made. The petitioners do not have any animosity with any staff member of the institution, however, because of the illegal appointments being made, the educational standard of the school is at its lowest ebb. According to the learned counsel, the President and the Secretary who were incharge have been ousted and the Head Master is exercising all the powers without adhering to the Rules, procedure and has made appointments as per his whims and free will. While making appointments, the procedure

has to be adhered. The specific allegations made against one Sk.Jabbar Sk.Gani, Syed Mumtazali, Sk.Rauf Yasin Patel, Syed Naser Syed Aaizazullah, so also Kazi Ikramoddin Bashiroddin and Pathan Farooque Khan Ibrahim Khan, were required to be probed by the Deputy Director of Education and thereafter ought to have arrived at conscious decision. However, the Deputy Director of Education in a slip shot manner dealt with the averments and the allegations made by the petitioners and has perpetuated the illegality. Mr.Surve, learned counsel further submits that even upon inquiry it was found that there was some inconsistency in the documents of two members of the non-teaching staff and their proposal was stayed by the Education Officer.

4. We have also heard Mr.Godbole, learned counsel and learned Addl. Government Pleader for the State.

5. We have considered the submissions. The petitioners had earlier filed W.P.No.385/2011. This Court directed the Deputy Director of Education to take decision on the representation of the petitioners dated 5.1.2010 and was asked to consider all relevant aspects raised by the parties and the aspect of delay.

6. From the perusal of the order passed by the Deputy Director, it appears that the teachers and the members of the non-teaching staff against whom allegations are made were appointed in the year 2000/2001 and approval to their appointment was given in

the year 2004. The School is brought on grant-in-aid from 2006. At the time approval is given the authorities are required to consider adherence to the due procedure while making appointments. In the year 2004 even before the School was brought on grant-in-aid basis the approvals have been granted to the appointments of the members of the teaching and non-teaching staff by the Education Officer. The Respondent institution is a minority institution which has some leeway in making appointments. Again approval granted to the said persons were scrutinised by the Deputy Director of Education. It would transpire that since the date of their appointments, for the first time in the year 2010 the objection was raised. In case there is dispute in the Management, as per relevant Government Circular, appointments can be made by the Head Master. No where it is pointed out that the persons who are appointed are ineligible to be appointed i.e. do not possess the basic qualification.

7. In case the members of the teaching and non-teaching staff are not performing their duties as is required, the Education Officer has always supervisory power over the institution and can take appropriate action in case of illegalities being committed. The same is a continuing process. As far as objections to the appointments are concerned, the said personnels are working since 2000 and as nowhere it is brought on record that these persons are not qualified

to be appointed and/or ineligible to be appointed, it would be now too late in the day to consider the grievance of the petitioners again, moreover, when the same is again considered by the Deputy Director of Education.

8. The Writ Petition is disposed of. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.05.12.2016.
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