

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD.

WRIT PETITION NO.6583 OF 2014

ASHOK VISHNU GAWAD. ... PETITIONER

VERSUS

**THE STATE OF MAHARASHTRA
AND OTHERS. ... RESPONDENTS.**

...

Advocate for Petitioner: Mr.Jadhavar S.S.
AGP for Respondents/State : Mr.S.G. Karlekar.
Advocate for Respondent 3 : Mr.V.B. Deshmukh.
Advocate for Respondent 4 :Mr.Shirsat S.R.

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CORAM:S.S. SHINDE & SANGITRAO S. PATIL, JJ.

Dated: May 02, 2016.

PER COURT:

1 Heard the learned Counsel for the petitioner and learned Counsel for respective respondents. With their able assistance, perused the pleadings in the petition, annexures thereto and reply filed by respondent No.3. We have carefully perused the communication between the Education

Officer (Secondary), Zilla Parishad, Osmanabad and the Secretary, Shri Sant Gorobakaka Shikshan Prasarak Mandal, Satephal, Taluka Kallam, District Osmanabad.

2 The contention of the learned Counsel for the petitioner is that the Education Officer could not have acted upon the instructions of respondent No.3 in absence of resolution by the managing committee to cause departmental enquiry. Therefore, he submits that the impugned communication / direction deserves to be quashed and set aside.

3 On the other hand, learned AGP submits that though respondent No.3 sought permission to place the petitioner under suspension, the Education Officer has not acceded to the said request. However, granted permission to cause departmental enquiry. According to learned Counsel for respondent No.3,

respondent No.3 is the Secretary of the concerned institution since beginning. In support of his contention, he invited our attention to the extract of the PTR i.e. Public Trust Record, which is placed on record along with letter written by the Secretary to the Education Officer dated 5th June, 2009 at Exh.R-3 to the affidavit-in-reply filed by respondent No.3. The learned Counsel for the petitioner, relying upon the proceedings pending at Exh.C page 20 to 22 of the compilation of the writ petition, submits that Shri Somnath Ganpati Waghmare is not Secretary but, Shri Arun Pandurang Garad is at present holding the charge of the post of Secretary. It is not possible for this Court to go into the aspect as to who is holding the post of Secretary at present. Suffice it to say that if the petitioner asserts that respondent No.3 is not the Secretary, he can seek such declaration from the competent

authority under the Bombay Public Trust Act, 1950. As already observed, we have carefully perused the contents of the impugned communication wherein the Education Officer has directed to cause departmental enquiry. The fact that the Education Officer has granted permission to the institution to cause departmental enquiry, presupposes application of mind by the concerned Education Officer.

4 In the light of above, we are not inclined to entertain this petition. However, we make it clear that the enquiry, if any, should be conducted strictly in accordance with the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and the M.E.P.S.Rules.

5 With the above observations, writ petition stands rejected. It is needless to observe that

the petitioner can take all possible contentions
and defence in such enquiry.

(SANGITRAO S.PATIL,J.) (S.S. SHINDE,J.)

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