

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 12341 OF 2015**

MANAGING COMMITTEE MADARSE MADINA TUL ULOOM
EDUCATIONTHROUGH ITS PRESIDENT S. A.

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Mantri Ramesh R.

AGP for Respondent/State : Mr. P.G. Borade

Advocate for Respondent no.2 : Mr. S.B. Pulkundwar

Advocate for Respondent no.4 : Mr. Sagar Killarikar Balaji L.

...

CORAM : S.S. SHINDE & P.R. BORA, JJ.

Dated: February 29, 2016

...

PER COURT :-

The learned counsel appearing for the petitioner, on instructions, makes a statement that, the petitioner is withdrawing all the allegations levelled against the Respondent No.4, and in case it is necessary, he may approach the Superior Authorities in that respect.

2. In that view of the matter, allegations and the prayer made against the Respondent No.4 in the Petition, stand withdrawn by the petitioner, and the Respondent No.4 stands deleted from the array of the Respondents in the

Petition.

3. It appears that, so far affidavit of service on Respondent No.2 is concerned, the same was filed on 8th January, 2016. However, inadvertently, the same was not noticed. Therefore, in view of the conditional order passed by this Court on 5th February, 2016, the Writ Petition stood dismissed as against the Respondent No.2, and his name came to be deleted from the array of the Respondents. In the aforesaid circumstances, the order dated 5th February, 2016 is recalled. The Petition is restored to its original file qua Respondent No.2. Mr. S.B. Pulkundwar, the learned counsel wavier service on behalf of Respondent No.2.

4. The learned counsel appearing for the petitioner, on instructions, submits that, he will file the separate Petition, so as to take exception to the so-called continuation of an Enquiry Committee and the order dated 7th December, 2015 passed by the Dy. E.O. - Z.P., Nanded. In that view of the matter, this Petition is confined to the extent of challenge to the order dated 14th August, 2015, passed by the Education Officer (Secondary), Zilla Parishad,

Nanded.

5. The learned counsel appearing for the petitioner submits that, there was no occasion for the Education Officer to pass such order in absence of any proposal by the Management, and such order is not legally sustainable, since the same is passed without hearing the affected parties. He further submits that, Smt. Shahensha Begum D/o Shadulla Khan i.e. petitioner no.3 is a senior most teacher.

6. We have heard the learned counsel appearing for the parties. Perused the reasons assigned in the office order dated 20th May, 2014, passed by the Education Officer (Secondary), Zilla Parishad, Nanded. The said authority has observed that, petitioner no.3 i.e. Smt. Shahensha Begum D/o Shadulla Khan is a senior most teacher in the school and accordingly, the authority was given to her to sign the salary bills and carry out the day today work of the school. That order attained finality. Another candidate, whose name is at Sr. No.2 Smt.Nisar Fatema Amiroddin Ansari did not challenge the said order. The order dated 14th August, 2015

is consequential to the order dated 20th May, 2014.

7. In our opinion, the said order is passed without hearing and without having any occasion to pass such order. If the Education Officer is of the opinion that, the proposal forwarded by the petitioner no.3, for the appointment of some employees could not have been forwarded by her, since the Respondent No.3 is authorized to sign only salary bills and to carry out the day today work of the school, option open to him was that, he should have returned said proposal to the petitioner no.3, on the ground that, she has no authority to forward such proposal. However, in our opinion, the impugned order, which is passed without hearing the parties is unsustainable, and same deserves to be quashed and set aside, and accordingly same is quashed and set aside.

8. The Petition is partly allowed and same stands disposed of.

(**P.R. BORA, J.**)

(**S.S. SHINDE, J.**)

...

SGA